



Montana Legislative History

Chapter: 202 Session L: 2017

Bill Number: 149 House

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	x
Third Reading Bill	X
Final Version of Bill	X

House

Committee:

Judiciary

Hearing Date(s):

[January 20, 2017](#)

[February 10, 2017](#) (EA)

Conference Committee

Hearing Date(s): n/a

Conference Committee Report:

Senate

Committee:

Judiciary

Hearing Date(s):

[March 10, 2017](#)

[March 16, 2017](#) (EA)

Compiler Notes

Compiled by: sg

Date: 6/21/24

Notes:

Bill Draft Number: LC0761

Bill Type - Number: HB 149

Short Title: Revise privacy laws regarding license plate readers

Primary Sponsor: Daniel Zolnikov (R) HD 45

Chapter Number: 202

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 57

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/14/2017			
(H) Signed by Governor	04/14/2017			
(H) Transmitted to Governor	04/06/2017			
(S) Signed by President	04/05/2017			
(H) Signed by Speaker	04/05/2017			
(H) Returned from Enrolling	04/04/2017			
(C) Printed - Enrolled Version Available	04/03/2017			
(H) Sent to Enrolling	04/03/2017			
(H) 3rd Reading Passed as Amended by Senate	04/01/2017	91	7	
(H) Scheduled for 3rd Reading	04/01/2017			
(H) 2nd Reading Senate Amendments Concurred	03/31/2017	97	3	
(H) Scheduled for 2nd Reading	03/31/2017			
(S) Returned to House with Amendments	03/23/2017			
(S) 3rd Reading Concurred	03/23/2017	48	1	
(S) Scheduled for 3rd Reading	03/23/2017			
(S) 2nd Reading Concurred	03/22/2017	50	0	
(S) Scheduled for 2nd Reading	03/22/2017			
(S) Scheduled for 2nd Reading	03/21/2017			
(C) Printed - New Version Available	03/16/2017			
(S) Committee Report--Bill Concurred as Amended	03/16/2017			(S) Judiciary
(S) Committee Executive Action--Bill Concurred as Amended	03/16/2017	11	0	(S) Judiciary
(C) Printed - New Version Available	03/14/2017			
(S) Hearing	03/10/2017			(S) Judiciary
(S) Referred to Committee	02/16/2017			(S) Judiciary
(S) First Reading	02/16/2017			
(H) Transmitted to Senate	02/15/2017			
(H) 3rd Reading Passed	02/15/2017	86	12	
(H) Scheduled for 3rd Reading	02/15/2017			
(H) 2nd Reading Passed	02/14/2017	85	15	
(H) Scheduled for 2nd Reading	02/14/2017			
(C) Printed - New Version Available	02/10/2017			

(H) Committee Report--Bill Passed as Amended	02/10/2017		(H) Judiciary
(H) Committee Executive Action--Bill Passed as Amended	02/10/2017	16	3 (H) Judiciary
(H) Hearing	01/20/2017		(H) Judiciary
(H) Fiscal Note Printed	01/11/2017		
(H) Fiscal Note Signed	01/10/2017		
(H) Fiscal Note Received	01/10/2017		
(H) Sponsor List Modified	01/09/2017		(H) Judiciary
(H) Rereferred to Committee	01/04/2017	88	10 (H) Judiciary
(H) Fiscal Note Requested	01/03/2017		
(H) First Reading	01/03/2017		(H) Transportation
(H) Referred to Committee	01/03/2017		(H) Transportation
(C) Introduced Bill Text Available Electronically	01/02/2017		
(H) Introduced	01/02/2017		
(C) Draft Delivered to Requester	01/02/2017		
(C) Draft Ready for Delivery	12/16/2016		
(C) Executive Director Final Review	12/15/2016		
(C) Draft in Assembly	12/13/2016		
(C) Executive Director Review	12/13/2016		
(C) Bill Draft Text Available Electronically	12/13/2016		
(C) Draft in Final Drafter Review	12/13/2016		
(C) Draft in Input/Proofing	12/13/2016		
(C) Draft to Drafter - Edit Review [KWK]	12/12/2016		
(C) Draft in Edit	12/12/2016		
(C) Draft in Legal Review	12/12/2016		
(C) Draft to Requester for Review	11/21/2016		
(C) Draft Request Received	11/12/2016		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Zolnikov	Daniel
Drafter	Sankey Keip	Laura
Primary Sponsor	Zolnikov	Daniel

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Privacy		Simple	PRIV
Transportation (see also: Motor Vehicles; Taxation--Transportation)		Simple	TRAN

Additional Bill Information

Fiscal Note Probable: Yes

Preintroduction Required: N

Session Law Ch. Number: 202

DEADLINE

Category: General Bills

Transmittal Date: 03/01/2017

Return (with 2nd house amendments) Date: 04/06/2017

Section Effective Dates

Section(s) **Effective Date** **Date Qualified**

All Sections 01-OCT-17

(f) for any electronic devices found within the confines of an adult or youth correctional facility.

(3) Nothing in [sections 1 through 3] may be construed to limit a government entity's ability to use, maintain, or store information on its own electronic devices or to disseminate information stored on its own electronic devices.

(4) [Sections 1 through 3] do not apply to motor carrier safety or hazardous materials programs implemented by the department of transportation for purposes of complying with federal motor carrier safety regulations.

Section 3. Civil action for violation. The attorney general may apply for an injunction or commence a civil action against any government entity to compel compliance with the terms of [sections 1 through 3].

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply to [sections 1 through 3].

Approved April 14, 2017

CHAPTER NO. 202

[HB 149]

AN ACT GENERALLY PROHIBITING THE USE OF A LICENSE PLATE READER BY THE STATE OR A LOCAL GOVERNMENT; PROVIDING EXCEPTIONS; PROVIDING A PENALTY FOR A VIOLATION OF THE PROHIBITION; AND LIMITING ACCESS TO INFORMATION OBTAINED BY USING A LICENSE PLATE READER.

Be it enacted by the Legislature of the State of Montana:

Section 1. Use of license plate reader prohibited – exceptions – definition – penalty. (1) Except as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use, either directly or indirectly, a license plate reader on any public highway.

(2) (a) The department of transportation or an incorporated city or town may use a license plate reader:

(i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used to investigate or prosecute an individual or as evidence in court.

(ii) in a regulated parking system, but only to identify a vehicle's location and license plate number to enforce parking restrictions.

(b) The department of transportation may use a device and equipment, including license plate readers, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-154 if the devices or equipment are used in screening operations associated with:

(i) virtual ports of entry;

(ii) weigh station ramps using automated weigh station screening systems;

(iii) virtual weigh stations using weigh-in-motion technology; or

(iv) an automatic vehicle identification system that enables participating transponder-equipped vehicles to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or agricultural interdiction facilities.

(c) Nothing in this section prohibits an agency of the state or any subdivision of the state from using its own vehicles, aircraft, or equipment, including a license plate reader, to track, monitor, or otherwise maintain information about the agency's or subdivision's vehicles, aircraft, or equipment.

(d) State or local law enforcement may use a device and equipment, including license plate readers if necessary, if the following requirements are met:

(i) A state or local law enforcement agency that uses an automatic license plate reader system shall adopt and publicize a written policy governing its use before the automatic license plate reader system is operational. The policy must address the following:

(A) use of any database to compare data obtained by the automatic license plate reader system;

(B) retention of data associated with the automatic license plate reader system;

(C) sharing of the data with another law enforcement agency;

(D) training of automatic license plate reader system operators;

(E) supervisory oversight of automatic license plate reader system use;

(F) access to and security of data;

(G) access to data obtained by automatic license plate reader systems not operated by the law enforcement agency; and

(H) any other subjects related to automatic license plate reader system use by the law enforcement agency.

(ii) At least once every year, the law enforcement agency shall audit its automatic license plate reader system use and effectiveness and report the findings to the head of the law enforcement agency responsible for operating the system.

(iii) Data obtained by a law enforcement agency in accordance with this subsection (2)(d) must be obtained, accessed, preserved, or disclosed only for law enforcement or criminal justice purposes.

(iv) A law enforcement agency that uses a license plate reader system shall:

(A) maintain a record of users who access license plate reader data. The record must be maintained indefinitely.

(B) keep system maintenance and calibration schedules and records on file.

(v) Operation of a license plate reader by a law enforcement agency and access to data collected by a license plate reader operated by a law enforcement agency must be for official law enforcement purposes only. A license plate reader must be used by a law enforcement agency only to scan, detect, and identify a license plate number for the purpose of identifying a vehicle that is:

(A) stolen;

(B) associated with a wanted, missing, or endangered person;

(C) registered to a person against whom there is an outstanding warrant;

(D) in violation of commercial trucking requirements;

(E) involved in case-specific criminal investigative surveillance;

(F) involved in a homicide, shooting, or other major crime or incident; or

(G) in the vicinity of a recent crime and may be connected to that crime.

(vi) A positive match by a license plate reader alone does not constitute reasonable suspicion as grounds for a law enforcement officer to stop a vehicle. The officer shall:

(A) develop independent reasonable suspicion for the stop; or

(B) immediately confirm visually that the license plate on a vehicle matches the image of the license plate displayed on the license plate reader and confirm by other means that the license plate number meets one of the criteria specified in subsection (2)(d)(v).

(vii) A law enforcement agency that uses an automatic license plate reader system in accordance with this section shall update the system from the databases specified pursuant to subsection (2)(d)(i) every 24 hours if an update is available or as soon as practicable after an update becomes available.

(viii) A license plate reader may be installed for the sole purpose of recording and checking license plates.

(3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions of this section is subject to the applicable penalties provided for in Title 2, chapter 2.

(4) As used in this section, the following definitions apply:

(a) "Law enforcement agency" means:

(i) an agency or officer of the state of Montana or a political subdivision that is empowered by the laws of this state to conduct investigations or to make arrests; and

(ii) an attorney, including the attorney general, who is authorized by the laws of this state to prosecute or to participate in the prosecution of a person who is arrested or who may be subject to a civil action related to or concerning an arrest.

(b) "License plate reader" means a device principally designed and primarily used for determining the ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, automated electronic toll collection system, automated license plate recognition system, or radio frequency identification device that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants or the mileage, location, or route traveled by the motor vehicle.

Section 2. Preservation and disclosure of records by law enforcement agency. (1) Except as provided in subsection (2), captured license plate data obtained by an automatic license plate reader system that is operated by or on behalf of a law enforcement agency for law enforcement purposes pursuant to [section 1(2)(d)] may not be preserved for more than 90 days after the date that the data is captured.

(2) Data obtained by an automatic license plate reader may be preserved for more than 90 days pursuant to any of the following:

(a) a preservation request submitted pursuant to subsection (3);

(b) a search warrant issued pursuant to 46-5-220;

(c) a federal search warrant issued in compliance with the Federal Rules of Civil Procedure.

(3) Upon the request of a law enforcement agency, the custodian of captured license plate data shall take all necessary steps to immediately preserve captured license plate data in its possession. A requesting agency must specify in a sworn written statement:

(a) the location of the particular camera or cameras for which captured license plate data must be preserved;

(b) the particular license plate for which captured license plate data must be preserved;

(c) the date or dates and timeframes for which captured license plate data must be preserved;

(d) specific and articulable facts showing that there are reasonable grounds to believe that the captured license plate data is relevant and material to an

ongoing criminal or missing persons investigation or is needed to prove a violation of a motor carrier safety regulation; and

(e) the case and the identity of the parties involved in the case.

(4) One year from the date of the initial preservation request, the captured license plate data obtained by an automatic license plate reader system must be destroyed according to the custodian's record or data retention policy, unless the custodian receives another preservation request within the 1-year period. If the custodian receives another preservation request, the 1-year retention period resets based on the date of the second request.

(5) License plate data captured in accordance with [section 1] is a public record but is protected from disclosure under the provisions of Title 2, chapter 6, parts 10 through 12, except to the person to whom the license plate is registered.

(6) Nothing in this section may be construed as requiring the disclosure of captured license plate data if a law enforcement agency determines that disclosure of that data will compromise an ongoing investigation.

(7) Captured license plate data gathered by law enforcement may not be sold for any purpose except as provided in [section 1].

Section 3. Confidentiality of information. The information collected or stored in any database under the provisions of [section 1(2)(a) through (2)(c)]:

(1) is private, is not a public record, and is not subject to public disclosure;

(2) may be accessed by an employee of the state or a political subdivision of the state only for the purpose of providing customer service or for statistical, administrative, or legal activities necessary to perform the employee's duties; and

(3) may be maintained only for the time minimally necessary, but no more than 18 months.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply to [sections 1 through 3].

Approved April 14, 2017

CHAPTER NO. 203

[HB 374]

AN ACT CLARIFYING THAT CERTAIN UTILITY FACILITIES MAY OCCUPY A HIGHWAY RIGHT-OF-WAY; REQUIRING THAT RULES ADOPTED FOR OCCUPANCY AND RELOCATION OF UTILITIES IN A HIGHWAY RIGHT-OF-WAY INCLUDE PROVISIONS FOR PUBLICLY OWNED WATER AND SEWER FACILITIES; AND AMENDING SECTIONS 60-4-401 AND 60-4-402, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 60-4-401, MCA, is amended to read:

"60-4-401. Relocation Occupancy and relocation – definitions. For the purposes of this part, unless otherwise indicated, terms are defined as follows:

(1) (a) "Cost of relocation" means the amount paid by the utility for material, labor, and equipment properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.

(b) "Cost of relocation" does not mean engineering costs for designing, locating, staking, inspecting, or any other incidental costs of engineering.



AN ACT GENERALLY PROHIBITING THE USE OF A LICENSE PLATE READER BY THE STATE OR A LOCAL GOVERNMENT; PROVIDING EXCEPTIONS; PROVIDING A PENALTY FOR A VIOLATION OF THE PROHIBITION; AND LIMITING ACCESS TO INFORMATION OBTAINED BY USING A LICENSE PLATE READER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Use of license plate reader prohibited -- exceptions -- definition -- penalty. (1) Except as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use, either directly or indirectly, a license plate reader on any public highway.

(2) (a) The department of transportation or an incorporated city or town may use a license plate reader:

(i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used to investigate or prosecute an individual or as evidence in court.

(ii) in a regulated parking system, but only to identify a vehicle's location and license plate number to enforce parking restrictions.

(b) The department of transportation may use a device and equipment, including license plate readers, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-154 if the devices or equipment are used in screening operations associated with:

(i) virtual ports of entry;

(ii) weigh station ramps using automated weigh station screening systems;

(iii) virtual weigh stations using weigh-in-motion technology; or

(iv) an automatic vehicle identification system that enables participating transponder-equipped vehicles to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or agricultural

interdiction facilities.

(c) Nothing in this section prohibits an agency of the state or any subdivision of the state from using its own vehicles, aircraft, or equipment, including a license plate reader, to track, monitor, or otherwise maintain information about the agency's or subdivision's vehicles, aircraft, or equipment.

(d) State or local law enforcement may use a device and equipment, including license plate readers if necessary, if the following requirements are met:

(i) A state or local law enforcement agency that uses an automatic license plate reader system shall adopt and publicize a written policy governing its use before the automatic license plate reader system is operational. The policy must address the following:

- (A) use of any database to compare data obtained by the automatic license plate reader system;
- (B) retention of data associated with the automatic license plate reader system;
- (C) sharing of the data with another law enforcement agency;
- (D) training of automatic license plate reader system operators;
- (E) supervisory oversight of automatic license plate reader system use;
- (F) access to and security of data;
- (G) access to data obtained by automatic license plate reader systems not operated by the law enforcement agency; and
- (H) any other subjects related to automatic license plate reader system use by the law enforcement agency.

(ii) At least once every year, the law enforcement agency shall audit its automatic license plate reader system use and effectiveness and report the findings to the head of the law enforcement agency responsible for operating the system.

(iii) Data obtained by a law enforcement agency in accordance with this subsection (2)(d) must be obtained, accessed, preserved, or disclosed only for law enforcement or criminal justice purposes.

(iv) A law enforcement agency that uses a license plate reader system shall:

(A) maintain a record of users who access license plate reader data. The record must be maintained indefinitely.

(B) keep system maintenance and calibration schedules and records on file.

(v) Operation of a license plate reader by a law enforcement agency and access to data collected by a

license plate reader operated by a law enforcement agency must be for official law enforcement purposes only. A license plate reader must be used by a law enforcement agency only to scan, detect, and identify a license plate number for the purpose of identifying a vehicle that is:

- (A) stolen;
- (B) associated with a wanted, missing, or endangered person;
- (C) registered to a person against whom there is an outstanding warrant;
- (D) in violation of commercial trucking requirements;
- (E) involved in case-specific criminal investigative surveillance;
- (F) involved in a homicide, shooting, or other major crime or incident; or
- (G) in the vicinity of a recent crime and may be connected to that crime.

(vi) A positive match by a license plate reader alone does not constitute reasonable suspicion as grounds for a law enforcement officer to stop a vehicle. The officer shall:

- (A) develop independent reasonable suspicion for the stop; or
- (B) immediately confirm visually that the license plate on a vehicle matches the image of the license plate displayed on the license plate reader and confirm by other means that the license plate number meets one of the criteria specified in subsection (2)(d)(v).

(vii) A law enforcement agency that uses an automatic license plate reader system in accordance with this section shall update the system from the databases specified pursuant to subsection (2)(d)(i) every 24 hours if an update is available or as soon as practicable after an update becomes available.

(viii) A license plate reader may be installed for the sole purpose of recording and checking license plates.

(3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions of this section is subject to the applicable penalties provided for in Title 2, chapter 2.

(4) As used in this section, the following definitions apply:

(a) "Law enforcement agency" means:

(i) an agency or officer of the state of Montana or a political subdivision that is empowered by the laws of this state to conduct investigations or to make arrests; and

(ii) an attorney, including the attorney general, who is authorized by the laws of this state to prosecute or to participate in the prosecution of a person who is arrested or who may be subject to a civil action related to or concerning an arrest.

(b) "License plate reader" means a device principally designed and primarily used for determining the ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, automated electronic toll collection system, automated license plate recognition system, or radio frequency identification device that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants or the mileage, location, or route traveled by the motor vehicle.

Section 2. Preservation and disclosure of records by law enforcement agency. (1) Except as provided in subsection (2), captured license plate data obtained by an automatic license plate reader system that is operated by or on behalf of a law enforcement agency for law enforcement purposes pursuant to [section 1(2)(d)] may not be preserved for more than 90 days after the date that the data is captured.

(2) Data obtained by an automatic license plate reader may be preserved for more than 90 days pursuant to any of the following:

- (a) a preservation request submitted pursuant to subsection (3);
- (b) a search warrant issued pursuant to 46-5-220;
- (c) a federal search warrant issued in compliance with the Federal Rules of Civil Procedure.

(3) Upon the request of a law enforcement agency, the custodian of captured license plate data shall take all necessary steps to immediately preserve captured license plate data in its possession. A requesting agency must specify in a sworn written statement:

- (a) the location of the particular camera or cameras for which captured license plate data must be preserved;
- (b) the particular license plate for which captured license plate data must be preserved;
- (c) the date or dates and timeframes for which captured license plate data must be preserved;
- (d) specific and articulable facts showing that there are reasonable grounds to believe that the captured license plate data is relevant and material to an ongoing criminal or missing persons investigation or is needed to prove a violation of a motor carrier safety regulation; and
- (e) the case and the identity of the parties involved in the case.

(4) One year from the date of the initial preservation request, the captured license plate data obtained by an automatic license plate reader system must be destroyed according to the custodian's record or data retention policy, unless the custodian receives another preservation request within the 1-year period. If the custodian receives another preservation request, the 1-year retention period resets based on the date of the second request.

(5) License plate data captured in accordance with [section 1] is a public record but is protected from disclosure under the provisions of Title 2, chapter 6, parts 10 through 12, except to the person to whom the license plate is registered.

(6) Nothing in this section may be construed as requiring the disclosure of captured license plate data if a law enforcement agency determines that disclosure of that data will compromise an ongoing investigation.

(7) Captured license plate data gathered by law enforcement may not be sold for any purpose except as provided in [section 1].

Section 3. Confidentiality of information. The information collected or stored in any database under the provisions of [section 1(2)(a) through (2)(c)]:

(1) is private, is not a public record, and is not subject to public disclosure;

(2) may be accessed by an employee of the state or a political subdivision of the state only for the purpose of providing customer service or for statistical, administrative, or legal activities necessary to perform the employee's duties; and

(3) may be maintained only for the time minimally necessary, but no more than 18 months.

Section 4. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply to [sections 1 through 3].

- END -

I hereby certify that the within bill,
HB 0149, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2017.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2017.

HOUSE BILL NO. 149

INTRODUCED BY D. ZOLNIKOV, B. BENNETT

AN ACT GENERALLY PROHIBITING THE USE OF A LICENSE PLATE READER BY THE STATE OR A LOCAL GOVERNMENT; PROVIDING EXCEPTIONS; PROVIDING A PENALTY FOR A VIOLATION OF THE PROHIBITION; AND LIMITING ACCESS TO INFORMATION OBTAINED BY USING A LICENSE PLATE READER.

HOUSE BILL NO. 149

INTRODUCED BY D. ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY PROHIBITING THE USE OF A LICENSE PLATE SCANNER BY THE STATE OR A LOCAL GOVERNMENT; PROVIDING EXCEPTIONS; PROVIDING A PENALTY FOR A VIOLATION OF THE PROHIBITION; AND LIMITING ACCESS TO INFORMATION OBTAINED BY USING A LICENSE PLATE SCANNER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Use of license plate scanner prohibited -- exceptions -- definition -- penalty. (1) Except as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use, either directly or indirectly, a license plate scanner on any public highway.

(2) (a) The department of transportation or an incorporated city or town may use a license plate scanner:

(i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used to investigate or prosecute an individual or as evidence in court.

(ii) in a regulated parking system, but only to identify a vehicle's location and license plate number to enforce parking restrictions.

(b) The department of transportation may use a device and equipment, including license plate scanners, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-154 if the devices or equipment are used in screening operations associated with:

(i) virtual ports of entry;

(ii) weigh station ramps using automated weigh station screening systems;

(iii) virtual weigh stations using weigh-in-motion technology; or

(iv) an automatic vehicle identification system that enables participating transponder-equipped vehicles to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or agricultural interdiction facilities.

(c) Nothing in this section prohibits an agency of the state or any subdivision of the state from using its own vehicles, aircraft, or equipment, including a license plate scanner, to track, monitor, or otherwise maintain information about the agency's or subdivision's vehicles, aircraft, or equipment.

(3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions of this section is subject to the applicable penalties provided for in Title 2, chapter 2.

(4) In this section, "license plate scanner" means a device principally designed and primarily used for determining the ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, automated electronic toll collection system, automated license plate recognition system, or radio frequency identification device that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants or the mileage, location, or route traveled by the motor vehicle.

NEW SECTION. Section 2. Confidentiality of information. The information collected or stored in any database under the provisions of [section 1]:

(1) is private, is not a public record, and is not subject to public disclosure;

(2) may be accessed by an employee of the state or a political subdivision of the state only for the purpose of providing customer service or for statistical, administrative, or legal activities necessary to perform the employee's duties; and

(3) may be maintained only for the time minimally necessary, but no more than 18 months.

NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply to [sections 1 and 2].

- END -

HOUSE BILL NO. 149

INTRODUCED BY D. ZOLNIKOV, B. BENNETT

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY PROHIBITING THE USE OF A LICENSE PLATE ~~SCANNER~~ READER BY THE STATE OR A LOCAL GOVERNMENT; PROVIDING EXCEPTIONS; PROVIDING A PENALTY FOR A VIOLATION OF THE PROHIBITION; AND LIMITING ACCESS TO INFORMATION OBTAINED BY USING A LICENSE PLATE ~~SCANNER~~ READER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Use of license plate ~~scanner~~ READER prohibited -- exceptions -- definition -- penalty. (1) Except as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use, either directly or indirectly, a license plate ~~scanner~~ READER on any public highway.

(2) (a) The department of transportation or an incorporated city or town may use a license plate ~~scanner~~ READER:

(i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used to investigate or prosecute an individual or as evidence in court.

(ii) in a regulated parking system, but only to identify a vehicle's location and license plate number to enforce parking restrictions.

(b) The department of transportation may use a device and equipment, including license plate ~~scanners~~ READERS, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-154 if the devices or equipment are used in screening operations associated with:

(i) virtual ports of entry;

(ii) weigh station ramps using automated weigh station screening systems;

(iii) virtual weigh stations using weigh-in-motion technology; or

(iv) an automatic vehicle identification system that enables participating transponder-equipped vehicles

1 to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or agricultural
2 interdiction facilities.

3 (c) Nothing in this section prohibits an agency of the state or any subdivision of the state from using its
4 own vehicles, aircraft, or equipment, including a license plate ~~scanner~~ READER, to track, monitor, or otherwise
5 maintain information about the agency's or subdivision's vehicles, aircraft, or equipment.

6 (D) STATE OR LOCAL LAW ENFORCEMENT MAY USE A DEVICE AND EQUIPMENT, INCLUDING LICENSE PLATE
7 READERS IF NECESSARY, IF THE FOLLOWING REQUIREMENTS ARE MET:

8 (I) A STATE OR LOCAL LAW ENFORCEMENT AGENCY THAT USES AN AUTOMATIC LICENSE PLATE READER SYSTEM
9 SHALL ADOPT AND PUBLICIZE A WRITTEN POLICY GOVERNING ITS USE BEFORE THE AUTOMATIC LICENSE PLATE READER
10 SYSTEM IS OPERATIONAL. THE POLICY MUST ADDRESS THE FOLLOWING:

11 (A) USE OF ANY DATABASE TO COMPARE DATA OBTAINED BY THE AUTOMATIC LICENSE PLATE READER SYSTEM;

12 (B) RETENTION OF DATA ASSOCIATED WITH THE AUTOMATIC LICENSE PLATE READER SYSTEM;

13 (C) SHARING OF THE DATA WITH ANOTHER LAW ENFORCEMENT AGENCY;

14 (D) TRAINING OF AUTOMATIC LICENSE PLATE READER SYSTEM OPERATORS;

15 (E) SUPERVISORY OVERSIGHT OF AUTOMATIC LICENSE PLATE READER SYSTEM USE;

16 (F) ACCESS TO AND SECURITY OF DATA;

17 (G) ACCESS TO DATA OBTAINED BY AUTOMATIC LICENSE PLATE READER SYSTEMS NOT OPERATED BY THE LAW
18 ENFORCEMENT AGENCY; AND

19 (H) ANY OTHER SUBJECTS RELATED TO AUTOMATIC LICENSE PLATE READER SYSTEM USE BY THE LAW
20 ENFORCEMENT AGENCY.

21 (II) AT LEAST ONCE EVERY YEAR, THE LAW ENFORCEMENT AGENCY SHALL AUDIT ITS AUTOMATIC LICENSE PLATE
22 READER SYSTEM USE AND EFFECTIVENESS AND REPORT THE FINDINGS TO THE HEAD OF THE LAW ENFORCEMENT AGENCY
23 RESPONSIBLE FOR OPERATING THE SYSTEM.

24 (III) DATA OBTAINED BY A LAW ENFORCEMENT AGENCY IN ACCORDANCE WITH THIS SUBSECTION (2)(D) MUST BE
25 OBTAINED, ACCESSED, PRESERVED, OR DISCLOSED ONLY FOR LAW ENFORCEMENT OR CRIMINAL JUSTICE PURPOSES.

26 (IV) A LAW ENFORCEMENT AGENCY THAT USES A LICENSE PLATE READER SYSTEM SHALL:

27 (A) MAINTAIN A RECORD OF USERS WHO ACCESS LICENSE PLATE READER DATA. THE RECORD MUST BE
28 MAINTAINED INDEFINITELY.

29 (B) KEEP SYSTEM MAINTENANCE AND CALIBRATION SCHEDULES AND RECORDS ON FILE.

30 (V) OPERATION OF A LICENSE PLATE READER AND ACCESS TO DATA COLLECTED BY A LICENSE PLATE READER

MUST BE FOR OFFICIAL LAW ENFORCEMENT PURPOSES ONLY. A LICENSE PLATE READER MUST BE USED ONLY TO SCAN, DETECT, AND IDENTIFY A LICENSE PLATE NUMBER FOR THE PURPOSE OF IDENTIFYING A VEHICLE THAT IS:

(A) STOLEN;

(B) ASSOCIATED WITH A WANTED, MISSING, OR ENDANGERED PERSON;

(C) REGISTERED TO A PERSON AGAINST WHOM THERE IS AN OUTSTANDING WARRANT;

(D) IN VIOLATION OF COMMERCIAL TRUCKING REQUIREMENTS;

(E) INVOLVED IN CASE-SPECIFIC CRIMINAL INVESTIGATIVE SURVEILLANCE;

(F) INVOLVED IN A HOMICIDE, SHOOTING, OR OTHER MAJOR CRIME OR INCIDENT; OR

(G) IN THE VICINITY OF A RECENT CRIME AND MAY BE CONNECTED TO THAT CRIME.

(vi) A POSITIVE MATCH BY A LICENSE PLATE READER ALONE DOES NOT CONSTITUTE REASONABLE SUSPICION AS GROUNDS FOR A LAW ENFORCEMENT OFFICER TO STOP A VEHICLE. THE OFFICER SHALL:

(A) DEVELOP INDEPENDENT REASONABLE SUSPICION FOR THE STOP; OR

(B) IMMEDIATELY CONFIRM VISUALLY THAT THE LICENSE PLATE ON A VEHICLE MATCHES THE IMAGE OF THE LICENSE PLATE DISPLAYED ON THE LICENSE PLATE READER AND CONFIRM BY OTHER MEANS THAT THE LICENSE PLATE NUMBER MEETS ONE OF THE CRITERIA SPECIFIED IN SUBSECTION (2)(D)(V).

(vii) A LAW ENFORCEMENT AGENCY THAT USES AN AUTOMATIC LICENSE PLATE READER SYSTEM IN ACCORDANCE WITH THIS SECTION SHALL UPDATE THE SYSTEM FROM THE DATABASES SPECIFIED PURSUANT TO SUBSECTION (2)(D)(I) EVERY 24 HOURS IF AN UPDATE IS AVAILABLE OR AS SOON AS PRACTICABLE AFTER AN UPDATE BECOMES AVAILABLE.

(viii) A LICENSE PLATE READER MAY BE INSTALLED FOR THE SOLE PURPOSE OF RECORDING AND CHECKING LICENSE PLATES AND MAY NOT BE CAPABLE OF PHOTOGRAPHING, RECORDING, OR PRODUCING IMAGES OF THE OCCUPANTS OF A VEHICLE.

(3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions of this section is subject to the applicable penalties provided for in Title 2, chapter 2.

(4) ~~In AS USED IN~~ this section, ~~"license plate scanner"~~ THE FOLLOWING DEFINITIONS APPLY:

(A) "LAW ENFORCEMENT AGENCY" MEANS:

(i) AN AGENCY OR OFFICER OF THE STATE OF MONTANA OR A POLITICAL SUBDIVISION THAT IS EMPOWERED BY THE LAWS OF THIS STATE TO CONDUCT INVESTIGATIONS OR TO MAKE ARRESTS; AND

(ii) AN ATTORNEY, INCLUDING THE ATTORNEY GENERAL, WHO IS AUTHORIZED BY THE LAWS OF THIS STATE TO PROSECUTE OR TO PARTICIPATE IN THE PROSECUTION OF A PERSON WHO IS ARRESTED OR WHO MAY BE SUBJECT TO A CIVIL ACTION RELATED TO OR CONCERNING AN ARREST.

(B) "LICENSE PLATE READER" means a device principally designed and primarily used for determining the ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, automated electronic toll collection system, automated license plate recognition system, or radio frequency identification device that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants or the mileage, location, or route traveled by the motor vehicle.

NEW SECTION. SECTION 2. PRESERVATION AND DISCLOSURE OF RECORDS BY LAW ENFORCEMENT AGENCY.

(1) EXCEPT AS PROVIDED IN SUBSECTION (2), CAPTURED LICENSE PLATE DATA OBTAINED BY AN AUTOMATIC LICENSE PLATE READER SYSTEM THAT IS OPERATED BY OR ON BEHALF OF A LAW ENFORCEMENT AGENCY FOR LAW ENFORCEMENT PURPOSES PURSUANT TO [SECTION 1(2)(D)] MAY NOT BE PRESERVED FOR MORE THAN 90 DAYS AFTER THE DATE THAT THE DATA IS CAPTURED.

(2) DATA OBTAINED BY AN AUTOMATIC LICENSE PLATE READER MAY BE PRESERVED FOR MORE THAN 90 DAYS PURSUANT TO ANY OF THE FOLLOWING:

(A) A PRESERVATION REQUEST SUBMITTED PURSUANT TO SUBSECTION (3);

(B) A SEARCH WARRANT ISSUED PURSUANT TO 46-5-220;

(C) A FEDERAL SEARCH WARRANT ISSUED IN COMPLIANCE WITH THE FEDERAL RULES OF CIVIL PROCEDURE.

(3) UPON THE REQUEST OF A LAW ENFORCEMENT AGENCY, THE CUSTODIAN OF CAPTURED LICENSE PLATE DATA SHALL TAKE ALL NECESSARY STEPS TO IMMEDIATELY PRESERVE CAPTURED LICENSE PLATE DATA IN ITS POSSESSION. A REQUESTING AGENCY MUST SPECIFY IN A SWORN WRITTEN STATEMENT:

(A) THE LOCATION OF THE PARTICULAR CAMERA OR CAMERAS FOR WHICH CAPTURED LICENSE PLATE DATA MUST BE PRESERVED;

(B) THE PARTICULAR LICENSE PLATE FOR WHICH CAPTURED LICENSE PLATE DATA MUST BE PRESERVED;

(C) THE DATE OR DATES AND TIMEFRAMES FOR WHICH CAPTURED LICENSE PLATE DATA MUST BE PRESERVED;

(D) SPECIFIC AND ARTICULABLE FACTS SHOWING THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE CAPTURED LICENSE PLATE DATA IS RELEVANT AND MATERIAL TO AN ONGOING CRIMINAL OR MISSING PERSONS INVESTIGATION OR IS NEEDED TO PROVE A VIOLATION OF A MOTOR CARRIER SAFETY REGULATION; AND

(E) THE CASE AND THE IDENTITY OF THE PARTIES INVOLVED IN THE CASE.

(4) ONE YEAR FROM THE DATE OF THE INITIAL PRESERVATION REQUEST, THE CAPTURED LICENSE PLATE DATA OBTAINED BY AN AUTOMATIC LICENSE PLATE READER SYSTEM MUST BE DESTROYED ACCORDING TO THE CUSTODIAN'S RECORD OR DATA RETENTION POLICY, UNLESS THE CUSTODIAN RECEIVES ANOTHER PRESERVATION REQUEST WITHIN THE 1-YEAR PERIOD. IF THE CUSTODIAN RECEIVES ANOTHER PRESERVATION REQUEST, THE 1-YEAR RETENTION PERIOD RESETS BASED ON THE DATE OF THE SECOND REQUEST.

(5) LICENSE PLATE DATA CAPTURED IN ACCORDANCE WITH [SECTION 1] IS A PUBLIC RECORD BUT IS PROTECTED FROM DISCLOSURE UNDER THE PROVISIONS OF TITLE 2, CHAPTER 6, PARTS 10 THROUGH 12, EXCEPT TO THE PERSON TO WHOM THE LICENSE PLATE IS REGISTERED.

(6) NOTHING IN THIS SECTION MAY BE CONSTRUED AS REQUIRING THE DISCLOSURE OF CAPTURED LICENSE PLATE DATA IF A LAW ENFORCEMENT AGENCY DETERMINES THAT DISCLOSURE OF THAT DATA WILL COMPROMISE AN ONGOING INVESTIGATION.

(7) CAPTURED LICENSE PLATE DATA MAY NOT BE SOLD FOR ANY PURPOSE.

NEW SECTION. Section 3. Confidentiality of information. The information collected or stored in any database under the provisions of [section 1(2)(A) THROUGH (2)(C)]:

(1) is private, is not a public record, and is not subject to public disclosure;

(2) may be accessed by an employee of the state or a political subdivision of the state only for the purpose of providing customer service or for statistical, administrative, or legal activities necessary to perform the employee's duties; and

(3) may be maintained only for the time minimally necessary, but no more than 18 months.

NEW SECTION. **Section 4. Codification instruction.** [Sections 1 ~~and 2~~ THROUGH 3] are intended to be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply to [sections 1 ~~and 2~~ THROUGH 3].

- END -

HOUSE BILL NO. 149

INTRODUCED BY D. ZOLNIKOV, B. BENNETT

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY PROHIBITING THE USE OF A LICENSE PLATE ~~SCANNER~~ READER BY THE STATE OR A LOCAL GOVERNMENT; PROVIDING EXCEPTIONS; PROVIDING A PENALTY FOR A VIOLATION OF THE PROHIBITION; AND LIMITING ACCESS TO INFORMATION OBTAINED BY USING A LICENSE PLATE ~~SCANNER~~ READER."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Use of license plate ~~scanner~~ READER prohibited -- exceptions -- definition -- penalty. (1) Except as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use, either directly or indirectly, a license plate ~~scanner~~ READER on any public highway.

(2) (a) The department of transportation or an incorporated city or town may use a license plate ~~scanner~~ READER:

(i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used to investigate or prosecute an individual or as evidence in court.

(ii) in a regulated parking system, but only to identify a vehicle's location and license plate number to enforce parking restrictions.

(b) The department of transportation may use a device and equipment, including license plate ~~scanners~~ READERS, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-154 if the devices or equipment are used in screening operations associated with:

(i) virtual ports of entry;

(ii) weigh station ramps using automated weigh station screening systems;

(iii) virtual weigh stations using weigh-in-motion technology; or

(iv) an automatic vehicle identification system that enables participating transponder-equipped vehicles

1 to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or agricultural
2 interdiction facilities.

3 (c) Nothing in this section prohibits an agency of the state or any subdivision of the state from using its
4 own vehicles, aircraft, or equipment, including a license plate ~~scanner~~ READER, to track, monitor, or otherwise
5 maintain information about the agency's or subdivision's vehicles, aircraft, or equipment.

6 (D) STATE OR LOCAL LAW ENFORCEMENT MAY USE A DEVICE AND EQUIPMENT, INCLUDING LICENSE PLATE
7 READERS IF NECESSARY, IF THE FOLLOWING REQUIREMENTS ARE MET:

8 (I) A STATE OR LOCAL LAW ENFORCEMENT AGENCY THAT USES AN AUTOMATIC LICENSE PLATE READER SYSTEM
9 SHALL ADOPT AND PUBLICIZE A WRITTEN POLICY GOVERNING ITS USE BEFORE THE AUTOMATIC LICENSE PLATE READER
10 SYSTEM IS OPERATIONAL. THE POLICY MUST ADDRESS THE FOLLOWING:

11 (A) USE OF ANY DATABASE TO COMPARE DATA OBTAINED BY THE AUTOMATIC LICENSE PLATE READER SYSTEM;

12 (B) RETENTION OF DATA ASSOCIATED WITH THE AUTOMATIC LICENSE PLATE READER SYSTEM;

13 (C) SHARING OF THE DATA WITH ANOTHER LAW ENFORCEMENT AGENCY;

14 (D) TRAINING OF AUTOMATIC LICENSE PLATE READER SYSTEM OPERATORS;

15 (E) SUPERVISORY OVERSIGHT OF AUTOMATIC LICENSE PLATE READER SYSTEM USE;

16 (F) ACCESS TO AND SECURITY OF DATA;

17 (G) ACCESS TO DATA OBTAINED BY AUTOMATIC LICENSE PLATE READER SYSTEMS NOT OPERATED BY THE LAW
18 ENFORCEMENT AGENCY; AND

19 (H) ANY OTHER SUBJECTS RELATED TO AUTOMATIC LICENSE PLATE READER SYSTEM USE BY THE LAW
20 ENFORCEMENT AGENCY.

21 (II) AT LEAST ONCE EVERY YEAR, THE LAW ENFORCEMENT AGENCY SHALL AUDIT ITS AUTOMATIC LICENSE PLATE
22 READER SYSTEM USE AND EFFECTIVENESS AND REPORT THE FINDINGS TO THE HEAD OF THE LAW ENFORCEMENT AGENCY
23 RESPONSIBLE FOR OPERATING THE SYSTEM.

24 (III) DATA OBTAINED BY A LAW ENFORCEMENT AGENCY IN ACCORDANCE WITH THIS SUBSECTION (2)(D) MUST BE
25 OBTAINED, ACCESSED, PRESERVED, OR DISCLOSED ONLY FOR LAW ENFORCEMENT OR CRIMINAL JUSTICE PURPOSES.

26 (IV) A LAW ENFORCEMENT AGENCY THAT USES A LICENSE PLATE READER SYSTEM SHALL:

27 (A) MAINTAIN A RECORD OF USERS WHO ACCESS LICENSE PLATE READER DATA. THE RECORD MUST BE
28 MAINTAINED INDEFINITELY.

29 (B) KEEP SYSTEM MAINTENANCE AND CALIBRATION SCHEDULES AND RECORDS ON FILE.

30 (V) OPERATION OF A LICENSE PLATE READER BY A LAW ENFORCEMENT AGENCY AND ACCESS TO DATA COLLECTED

1 BY A LICENSE PLATE READER OPERATED BY A LAW ENFORCEMENT AGENCY MUST BE FOR OFFICIAL LAW ENFORCEMENT
2 PURPOSES ONLY. A LICENSE PLATE READER MUST BE USED BY A LAW ENFORCEMENT AGENCY ONLY TO SCAN, DETECT,
3 AND IDENTIFY A LICENSE PLATE NUMBER FOR THE PURPOSE OF IDENTIFYING A VEHICLE THAT IS:

4 (A) STOLEN;

5 (B) ASSOCIATED WITH A WANTED, MISSING, OR ENDANGERED PERSON;

6 (C) REGISTERED TO A PERSON AGAINST WHOM THERE IS AN OUTSTANDING WARRANT;

7 (D) IN VIOLATION OF COMMERCIAL TRUCKING REQUIREMENTS;

8 (E) INVOLVED IN CASE-SPECIFIC CRIMINAL INVESTIGATIVE SURVEILLANCE;

9 (F) INVOLVED IN A HOMICIDE, SHOOTING, OR OTHER MAJOR CRIME OR INCIDENT; OR

10 (G) IN THE VICINITY OF A RECENT CRIME AND MAY BE CONNECTED TO THAT CRIME.

11 (VI) A POSITIVE MATCH BY A LICENSE PLATE READER ALONE DOES NOT CONSTITUTE REASONABLE SUSPICION AS
12 GROUND FOR A LAW ENFORCEMENT OFFICER TO STOP A VEHICLE. THE OFFICER SHALL:

13 (A) DEVELOP INDEPENDENT REASONABLE SUSPICION FOR THE STOP; OR

14 (B) IMMEDIATELY CONFIRM VISUALLY THAT THE LICENSE PLATE ON A VEHICLE MATCHES THE IMAGE OF THE
15 LICENSE PLATE DISPLAYED ON THE LICENSE PLATE READER AND CONFIRM BY OTHER MEANS THAT THE LICENSE PLATE
16 NUMBER MEETS ONE OF THE CRITERIA SPECIFIED IN SUBSECTION (2)(D)(V).

17 (VII) A LAW ENFORCEMENT AGENCY THAT USES AN AUTOMATIC LICENSE PLATE READER SYSTEM IN ACCORDANCE
18 WITH THIS SECTION SHALL UPDATE THE SYSTEM FROM THE DATABASES SPECIFIED PURSUANT TO SUBSECTION (2)(D)(I)
19 EVERY 24 HOURS IF AN UPDATE IS AVAILABLE OR AS SOON AS PRACTICABLE AFTER AN UPDATE BECOMES AVAILABLE.

20 (VIII) A LICENSE PLATE READER MAY BE INSTALLED FOR THE SOLE PURPOSE OF RECORDING AND CHECKING
21 LICENSE PLATES AND MAY NOT BE CAPABLE OF PHOTOGRAPHING, RECORDING, OR PRODUCING IMAGES OF THE
22 OCCUPANTS OF A VEHICLE.

23 (3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions
24 of this section is subject to the applicable penalties provided for in Title 2, chapter 2.

25 (4) ~~In~~ AS USED IN this section, "license plate scanner" THE FOLLOWING DEFINITIONS APPLY:

26 (A) "LAW ENFORCEMENT AGENCY" MEANS:

27 (I) AN AGENCY OR OFFICER OF THE STATE OF MONTANA OR A POLITICAL SUBDIVISION THAT IS EMPOWERED BY
28 THE LAWS OF THIS STATE TO CONDUCT INVESTIGATIONS OR TO MAKE ARRESTS; AND

29 (II) AN ATTORNEY, INCLUDING THE ATTORNEY GENERAL, WHO IS AUTHORIZED BY THE LAWS OF THIS STATE TO
30 PROSECUTE OR TO PARTICIPATE IN THE PROSECUTION OF A PERSON WHO IS ARRESTED OR WHO MAY BE SUBJECT TO A

1 CIVIL ACTION RELATED TO OR CONCERNING AN ARREST.

2 (B) "LICENSE PLATE READER" means a device principally designed and primarily used for determining the
3 ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor
4 vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the
5 use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular
6 telephone, global positioning satellite, automated electronic toll collection system, automated license plate
7 recognition system, or radio frequency identification device that by itself or in conjunction with other devices or
8 information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's
9 occupants or the mileage, location, or route traveled by the motor vehicle.

10
11 NEW SECTION. SECTION 2. PRESERVATION AND DISCLOSURE OF RECORDS BY LAW ENFORCEMENT AGENCY.

12 (1) EXCEPT AS PROVIDED IN SUBSECTION (2), CAPTURED LICENSE PLATE DATA OBTAINED BY AN AUTOMATIC LICENSE
13 PLATE READER SYSTEM THAT IS OPERATED BY OR ON BEHALF OF A LAW ENFORCEMENT AGENCY FOR LAW ENFORCEMENT
14 PURPOSES PURSUANT TO [SECTION 1(2)(D)] MAY NOT BE PRESERVED FOR MORE THAN 90 DAYS AFTER THE DATE THAT
15 THE DATA IS CAPTURED.

16 (2) DATA OBTAINED BY AN AUTOMATIC LICENSE PLATE READER MAY BE PRESERVED FOR MORE THAN 90 DAYS
17 PURSUANT TO ANY OF THE FOLLOWING:

18 (A) A PRESERVATION REQUEST SUBMITTED PURSUANT TO SUBSECTION (3);

19 (B) A SEARCH WARRANT ISSUED PURSUANT TO 46-5-220;

20 (C) A FEDERAL SEARCH WARRANT ISSUED IN COMPLIANCE WITH THE FEDERAL RULES OF CIVIL PROCEDURE.

21 (3) UPON THE REQUEST OF A LAW ENFORCEMENT AGENCY, THE CUSTODIAN OF CAPTURED LICENSE PLATE DATA
22 SHALL TAKE ALL NECESSARY STEPS TO IMMEDIATELY PRESERVE CAPTURED LICENSE PLATE DATA IN ITS POSSESSION. A
23 REQUESTING AGENCY MUST SPECIFY IN A SWORN WRITTEN STATEMENT:

24 (A) THE LOCATION OF THE PARTICULAR CAMERA OR CAMERAS FOR WHICH CAPTURED LICENSE PLATE DATA MUST
25 BE PRESERVED;

26 (B) THE PARTICULAR LICENSE PLATE FOR WHICH CAPTURED LICENSE PLATE DATA MUST BE PRESERVED;

27 (C) THE DATE OR DATES AND TIMEFRAMES FOR WHICH CAPTURED LICENSE PLATE DATA MUST BE PRESERVED;

28 (D) SPECIFIC AND ARTICULABLE FACTS SHOWING THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE
29 CAPTURED LICENSE PLATE DATA IS RELEVANT AND MATERIAL TO AN ONGOING CRIMINAL OR MISSING PERSONS
30 INVESTIGATION OR IS NEEDED TO PROVE A VIOLATION OF A MOTOR CARRIER SAFETY REGULATION; AND

1 (E) THE CASE AND THE IDENTITY OF THE PARTIES INVOLVED IN THE CASE.

2 (4) ONE YEAR FROM THE DATE OF THE INITIAL PRESERVATION REQUEST, THE CAPTURED LICENSE PLATE DATA
3 OBTAINED BY AN AUTOMATIC LICENSE PLATE READER SYSTEM MUST BE DESTROYED ACCORDING TO THE CUSTODIAN'S
4 RECORD OR DATA RETENTION POLICY, UNLESS THE CUSTODIAN RECEIVES ANOTHER PRESERVATION REQUEST WITHIN THE
5 1-YEAR PERIOD. IF THE CUSTODIAN RECEIVES ANOTHER PRESERVATION REQUEST, THE 1-YEAR RETENTION PERIOD
6 RESETS BASED ON THE DATE OF THE SECOND REQUEST.

7 (5) LICENSE PLATE DATA CAPTURED IN ACCORDANCE WITH [SECTION 1] IS A PUBLIC RECORD BUT IS PROTECTED
8 FROM DISCLOSURE UNDER THE PROVISIONS OF TITLE 2, CHAPTER 6, PARTS 10 THROUGH 12, EXCEPT TO THE PERSON
9 TO WHOM THE LICENSE PLATE IS REGISTERED.

10 (6) NOTHING IN THIS SECTION MAY BE CONSTRUED AS REQUIRING THE DISCLOSURE OF CAPTURED LICENSE PLATE
11 DATA IF A LAW ENFORCEMENT AGENCY DETERMINES THAT DISCLOSURE OF THAT DATA WILL COMPROMISE AN ONGOING
12 INVESTIGATION.

13 (7) CAPTURED LICENSE PLATE DATA GATHERED BY LAW ENFORCEMENT MAY NOT BE SOLD FOR ANY PURPOSE
14 EXCEPT AS PROVIDED IN [SECTION 1].

15
16 NEW SECTION. Section 3. Confidentiality of information. The information collected or stored in any
17 database under the provisions of [section 1(2)(A) THROUGH (2)(C)]:

18 (1) is private, is not a public record, and is not subject to public disclosure;

19 (2) may be accessed by an employee of the state or a political subdivision of the state only for the
20 purpose of providing customer service or for statistical, administrative, or legal activities necessary to perform
21 the employee's duties; and

22 (3) may be maintained only for the time minimally necessary, but no more than 18 months.

23
24 NEW SECTION. Section 4. Codification instruction. [Sections 1 ~~and 2~~ THROUGH 3] are intended to
25 be codified as an integral part of Title 46, chapter 5, part 1, and the provisions of Title 46, chapter 5, part 1, apply
26 to [sections 1 ~~and 2~~ THROUGH 3].

27 - END -



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2019 Biennium

Bill #	HB0149	Title:	Revise privacy laws regarding license plate scanners
Primary Sponsor:	Zolnikov, Daniel	Status:	As Introduced

- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☒ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>	<u>FY 2020 Difference</u>	<u>FY 2021 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: This bill has no fiscal impact to the state.

FISCAL ANALYSIS

Assumptions:

1. With the exceptions listed in HB 149, there is no fiscal impact on Montana Department of Transportation's traffic data collection, analyses, and reporting. Federal Highway requirements on traffic data collection and reporting have in the past been utilized in apportioning funds to states.

Sponsor's Initials

Date

Budget Director's Initials

Date

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Alan Doane, on January 20, 2017 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Alan Doane, Chair (R)
Rep. Seth Berglee, Vice Chair (R)
Rep. Virginia Court, Vice Chair (D)
Rep. Laurie Bishop (D)
Rep. Bob Brown (R)
Rep. Jennifer Eck (D)
Rep. Kathy Kelker (D)
Rep. Casey Knudsen (R)
Rep. Theresa Manzella (R)
Rep. Nate McConnell (D)
Rep. Shane A. Morigeau (D)
Rep. Dale Mortensen (R)
Rep. Zac Perry (D)
Rep. Matt Regier (R)
Rep. Lola Sheldon-Galloway (R)
Rep. Barry Usher (R)
Rep. Kirk Wagoner (R)

Members Excused:

Rep. Bill Harris (R)
Rep. Ellie Hill Smith (D)

Members Absent: None

Staff Present: Sara Fleming, Committee Secretary
Helen Thigpen, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 147, 1/5/2017; HB 148, 1/5/2017; HB 149, 1/5/2017
Executive Action: HB 129, HB 194, HB 206, HB 217

HEARING ON HB 147**Opening Statement by Sponsor:**

00:00:03 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 147, Requiring search warrant for gov access to electronic devices.

00:02:23 Rep. Harris joined the meeting

Proponents' Testimony:

00:10:33 SK Rossi, American Civil Liberties Union (ACLU)

00:15:41 John Finn, Lewis & Clark Library, Montana Library Association (MLA)

00:17:41 Ninette Gilbertson, Montana Library Association (MLA)

00:19:04 Tucker Finley, Montana Public Interest Research Group (MPIRG)

00:19:29 Wes Krawczyk, Self

[EXHIBIT\(juh15a01\)](#)

Opponents' Testimony:

00:21:39 Chad Parker, Department of Justice (DOJ)

00:30:50 Mark Murphy, Montana County Attorneys Association (MCAA), Montana Chiefs of Police Association(MCOPA), Montana Police Protective Association (MPPA)

Informational Testimony:

00:38:45 Dwayne Williams, Montana Department of Transportation (MDT)

Questions from Committee Members and Responses:

00:40:13 Rep. Kelker

00:41:00 Mark Murphy, MCAA, MCOPA, MPPA

00:43:22 Rep. C. Knudsen

00:43:56 Chad Parker, DOJ

00:49:43 Rep. Morigeau

00:50:07 SK Rossi, ACLU

00:52:29 Rep. Harris

00:53:26 SK Rossi, ACLU

00:53:43 Rep. Harris

00:54:53 Chad Parker, DOJ

01:02:50 Rep. Harris

01:03:23 Rep. Zolnikov

01:07:29 Rep. B. Brown

01:08:08 Dwayne Williams, MDT

01:08:54 Rep. B. Brown

01:09:22 Rep. Zolnikov

01:10:16 Rep. McConnell

01:11:56 Rep. Zolnikov

01:15:38 Rep. McConnell

01:16:08 Dwayne Williams, DOJ

01:16:48 Rep. Usher

01:17:42 Chad Parker, DOJ

01:19:52 Vice Chair Court

01:20:27 Chad Parker, DOJ

Closing by Sponsor:

01:21:48 Rep. Zolnikov

01:28:01 Recess

01:31:24 Reconvene

HEARING ON HB 148**Opening Statement by Sponsor:**

01:33:54 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 148, Generally revise privacy laws.

Proponents' Testimony:

01:41:56 Ninette Gilbertson, Montana Library Association (MLA)

01:42:47 John Finn, Lewis & Clark Library, Montana Library Association (MLA)

01:43:13 SK Rossi, American Civil Liberties Union (ACLU)

01:44:00 Wes Krawczyk, Self

Opponents' Testimony:

01:44:42 Chad Parker, Department of Justice (DOJ)

01:45:37 Mark Murphy, Montana County Attorneys Association (MCAA), Montana Chiefs of Police Association(MCOPA), Montana Police Protective Association (MPPA)

Informational Testimony: None**Questions from Committee Members and Responses:**

01:50:34 Rep. Usher

01:51:20 Rep. Hill Smith joined the meeting

01:52:17 Rep. Zolnikov

02:00:20 Vice Chair Court

02:01:02 Rep. Zolnikov

Closing by Sponsor:

02:03:17 Rep. Zolnikov

02:04:02 Recess

02:06:17 Reconvene

HEARING ON HB 149**Opening Statement by Sponsor:**

02:06:23 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 149, Revise privacy laws regarding license plate scanners.

Proponents' Testimony:

02:13:34 Spook Stang, Motor Carriers Montana (MCM)

02:15:39 SK Rossi, American Civil Liberties Union (ACLU)

Opponents' Testimony:

02:18:00 Brian Lockerby, Department of Justice (DOJ)
02:22:38 Mark Murphy, Montana County Attorneys Association (MCAA), Montana Chiefs of Police Association(MCOPA), Montana Police Protective Association (MPPA)

Informational Testimony: None**Questions from Committee Members and Responses:**

02:29:54 Rep. Kelker
02:31:13 Rep. Zolnikov
02:36:51 Rep. Morigeau
02:37:20 Rep. Zolnikov
02:38:40 Rep. Usher
02:39:13 Rep. Zolnikov
02:43:08 Rep. Sheldon-Galloway
02:43:37 Rep. Zolnikov
02:44:28 Rep. McConnell
02:45:08 SK Rossi, ACLU
02:45:16 Rep. Usher
02:45:50 Brian Lockerby, DOJ

Closing by Sponsor:

02:46:39 Rep. Zolnikov

02:49:11 Recess
02:58:59 Reconvene

Committee Business:

02:59:57 Chair Doane
03:00:08 Rep. Wagoner
03:00:24 Helen Thigpen, Legislative Services Division, (LSD)
03:01:23 Chair Doane

EXECUTIVE ACTION ON HB 129

03:01:41 **Motion:** Rep. Berglee moved that **HB 129 DO PASS.**

Discussion:

03:01:52 Helen Thigpen, Legislative Services Division (LSD)

03:02:20 **Motion:** Rep. C. Knudsen moved that **HB 129 BE AMENDED.**

[**EXHIBIT\(juh15a02\)**](#)

Discussion:

03:02:34 Helen Thigpen, LSD
03:02:50 Rep. C. Knudsen
03:03:29 Rep. Hill Smith

03:04:06 **Vote:** Motion carried unanimously by voice vote.

03:04:19 **Motion:** Rep. Berglee moved that **HB 129 DO PASS AS AMENDED.**

03:04:24 **Motion:** Rep. Wagoner moved that **HB 129 BE AMENDED.**
[EXHIBIT\(juh15a03\)](#)

Discussion:

03:04:35 Helen Thigpen, LSD

03:05:17 **Vote:** Motion carried unanimously by voice vote.

03:05:36 **Motion:** Rep. Berglee moved that **HB 129 DO PASS AS AMENDED.**

Discussion:

03:05:42 Rep. Hill Smith

03:06:40 Rep. Wagoner

03:07:17 **Substitute Motion:** Rep. Berglee moved that **HB 129 BE TABLED.**

Discussion:

03:07:19 Chair Doane

03:08:00 **Vote:** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 194

03:08:27 **Motion:** Rep. Berglee moved that **HB 194 DO PASS.**

Discussion:

03:08:38 Helen Thigpen, LSD

03:08:57 Rep. C. Knudsen

03:09:50 Rep. Usher

03:10:38 Rep. Eck

03:11:22 Rep. Kelker

03:11:53 Rep. Manzella

03:12:19 Rep. Morigeau

03:13:46 Rep. Wagoner

03:15:29 Rep. B. Brown

03:15:50 Rep. McConnell

03:17:03 Rep. Usher

03:18:33 Vice Chair Berglee

03:20:25 Rep. Kelker

03:20:58 Rep. Harris

03:21:30 **Vote:** Motion carried 10-9 by roll call vote with Rep. Bishop, Rep. Court, Rep. Eck, Rep. Hill Smith, Rep. Kelker, Rep. McConnell, Rep. Morigeau, Rep. Perry and Rep. Sheldon-Galloway voting no.

EXECUTIVE ACTION ON HB 206

03:23:23 **Motion:** Rep. Berglee moved that **HB 206 DO PASS.**

Discussion:

03:23:31 Helen Thigpen, LSD

03:17:13 **Motion:** Rep. Doane moved that **HB 206 BE AMENDED.**
EXHIBIT(juh15a04)

Discussion:

03:24:41 Helen Thigpen, LSD

03:25:12 Chair Doane

03:25:18 Helen Thigpen, LSD

03:25:49 Rep. McConnell

03:26:12 Helen Thigpen, LSD

03:26:36 Rep. McConnell

03:26:47 Chair Doane

03:27:19 Helen Thigpen, LSD

03:27:47 Rep. Kelker

03:28:42 Rep. Hill Smith

03:28:52 Rep. McConnell

03:30:04 Chair Doane

03:30:17 Rep. McConnell

03:31:02 **Vote:** Motion carried 10-9 by roll call vote with Rep. Bishop, Rep. Court,
Rep. Eck, Rep. Harris, Rep. Kelker, Rep. McConnell, Rep. Morigeau, Rep. Perry
and Rep. Sheldon-Galloway voting no.

03:32:25 **Motion:** Rep. Berglee moved that **HB 206 DO PASS AS AMENDED.**

Discussion:

03:32:46 Rep. McConnell

03:32:56 Helen Thigpen, LSD

03:33:16 Chair Doane

03:33:20 Rep. McConnell

03:33:25 Rep. Usher

03:33:45 Helen Thigpen, LSD

03:33:56 Rep. Usher

03:34:05 Helen Thigpen, LSD

03:34:28 Chair Doane

03:34:52 Rep. Usher

03:34:56 Rep. Hill Smith

03:35:16 Rep. Harris

03:37:16 Chair Doane

03:37:27 Lynn Zanto, Montana Department of Transportation (MDT)

03:38:36 Rep. McConnell

03:39:03 Lynn Zanto, MDT

03:39:24 Vice Chair Court

03:40:14 Lynn Zanto, MDT

03:40:56 Chair Doane
03:41:06 Rep. Wagoner
03:41:22 Lynn Zanto, MDT
03:41:40 Rep. C. Knudsen
03:42:14 Rep. Eck
03:43:01 Rep. Morigeau
03:44:04 Rep. Hill Smith
03:46:04 Rep. B. Brown
03:46:18 Chair Doane
03:46:39 Rep. McConnell
03:47:04 Rep. Berglee
03:47:26 Chair Doane

03:47:51 **Vote:** Motion failed 6-13 by roll call vote with Rep. B. Brown, Rep. Doane, Rep. C. Knudsen, Rep. Manzella, Rep. Mortensen and Rep. Usher voting aye.

03:49:13 **Motion/Vote:** Rep. Court moved that **HB 206 BE TABLED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON HB 217

03:49:38 **Motion:** Rep. Berglee moved that **HB 217 DO PASS**.

Discussion:

03:49:43 Helen Thigpen, LSD
03:50:01 Chair Doane
03:50:05 Rep. Morigeau
03:50:16 Rep. Wagoner

03:50:38 **Vote:** Motion carried unanimously by voice vote.

Committee Business:

03:51:00 Helen Thigpen, LSD

[EXHIBIT\(juh15a05\)](#)

ADJOURNMENT

Adjournment: 03:51:33

Sara Fleming, Secretary

sf

Additional Documents:

EXHIBIT([juh15aad.pdf](#))

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Alan Doane, on February 10, 2017 at 8:00 AM, in Room 137
Capitol

ROLL CALL

Members Present:

Rep. Alan Doane, Chair (R)
Rep. Seth Berglee, Vice Chair (R)
Rep. Virginia Court, Vice Chair (D)
Rep. Laurie Bishop (D)
Rep. Bob Brown (R)
Rep. Bill Harris (R)
Rep. Kathy Kelker (D)
Rep. Casey Knudsen (R)
Rep. Theresa Manzella (R)
Rep. Dale Mortensen (R)
Rep. Zac Perry (D)
Rep. Matt Regier (R)
Rep. Lola Sheldon-Galloway (R)
Rep. Barry Usher (R)
Rep. Kirk Wagoner (R)

Members Excused:

Rep. Jennifer Eck (D)
Rep. Ellie Hill Smith (D)
Rep. Nate McConnell (D)
Rep. Shane A. Morigeau (D)

Members Absent: None

Staff Present: Sara Fleming, Committee Secretary
Helen Thigpen, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 348, 2/2/2017; HB 349, 2/2/2017; HB 350, 2/2/2017
Executive Action: HB 320, HB 327, HB 168, HB 149, HB 340, HB 133, HB 366

HEARING ON HB 348**Opening Statement by Sponsor:**

00:01:02 Rep. Peggy Webb (R), HD 43, opened the hearing on HB 348, Generally revise tenant landlord laws.

Proponents' Testimony:

00:04:15 John Sinrud, Montana Landlords Association (MLA)
00:05:52 Rep. Eck joined the meeting
00:11:58 Rick Linafelter, Montana Landlords Association (MLA)

Opponents' Testimony:

00:13:35 Edward Beaudett, Self
00:16:07 Amy Hall, Montana Legal Services Association (MLSA)
00:23:52 Dillon Ecord, Montana State University (MSU)
00:24:58 Abigail Belcher, Associated Students of the University of Montana (ASUM)
00:26:44 Katie Westhoff, Montana Public Interest Research Group

Informational Testimony: None**Questions from Committee Members and Responses:**

00:28:12 Rep. Manzella
00:28:34 John Sinrud, MLA
00:31:18 Rep. Bishop
00:31:54 John Sinrud, MLA
00:39:56 Rep. Kelker
00:40:18 John Sinrud, MLA
00:44:06 Rep. Court
00:45:21 Amy Hall, MLSA
00:49:03 Rep. Berglee
00:49:39 Amy Hall, MLSA
00:54:48 Rep. Manzella
00:55:38 Rick Linafelter, MLA
00:58:15 Rep. Sheldon-Galloway
00:58:50 John Sinrud, MLA

Closing by Sponsor:

00:59:58 Rep. Webb

01:02:44 Rep. Hill Smith joined the meeting

HEARING ON HB 349**Opening Statement by Sponsor:**

01:05:20 Rep. Peggy Webb (R), HD 43, opened the hearing on HB 349, Revise effect of failure to sign landlord tenant rental agreement.

Proponents' Testimony:

01:06:49 John Sinrud, Montana Landlords Association (MLA)
01:08:52 Rick Linafelter, Montana Landlords Association (MLA)

01:09:10 Taylor Oldroyd, Montana Association of Realtors (MAR)

Opponents' Testimony:

01:10:00 Amy Hall, Montana Legal Services Association (MLSA)

[EXHIBIT\(juh30a01\)](#)

[EXHIBIT\(juh30a02\)](#)

Informational Testimony: None

Questions from Committee Members and Responses:

01:16:39 Rep. C. Knudsen

01:17:28 John Sinrud, MLA

01:20:27 Rep. Berglee

01:20:54 Amy Hall, MLSA

01:22:47 Rep. Berglee

01:23:13 John Sinrud, MLA

01:23:30 Rep. Eck

01:23:56 Amy Hall, MLSA

01:29:22 Rep. Kelker

01:30:00 Amy Hall, MLSA

Closing by Sponsor:

01:31:53 Rep. Webb

HEARING ON HB 350

Opening Statement by Sponsor:

01:33:23 Rep. Peggy Webb (R), HD 43, opened the hearing on HB 350, Generally revise default provisions in rental agreements.

Proponents' Testimony:

01:34:53 John Sinrud, Montana Landlords Association (MLA)

01:38:30 Rick Linafelter, Montana Landlords Association (MLA)

01:38:52 Taylor Oldroyd, Montana Association of Realtors (MAR)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:39:27 Rep. Webb

Committee Business:

01:40:17 Chair Doane

[EXHIBIT\(juh30a03\)](#)

[EXHIBIT\(juh30a04\)](#)

01:40:50 Recess
02:06:21 Reconvene

EXECUTIVE ACTION ON HB 320

Discussion:

02:07:07 Helen Thigpen, Legislative Services Division (LSD)

02:07:24 **Motion:** Rep. Berglee moved that **HB 320 DO PASS.**

Discussion:

02:07:38 Rep. Eck
02:08:11 Chair Doane
02:08:24 Rep. Mortensen
02:08:33 Rep. Manzella
02:08:49 Rep. Usher

02:09:19 **Vote:** Motion failed 6-13 by roll call vote with Rep. Berglee, Rep. Harris, Rep. Manzella, Rep. M. Regier, Rep. Usher and Rep. Wagoner voting aye. Rep. McConnell, Rep. Morigeau, Rep. M. Regier and Rep. Wagoner voted by proxy.

02:10:47 **Motion:** Rep. Court moved **HB 320 BE TABLED.** Motion was without objection.

EXECUTIVE ACTION ON HB 327

Discussion:

02:11:32 Helen Thigpen, LSD

02:12:15 **Motion:** Rep. Berglee moved that **HB 327 DO PASS.**

02:13:44 **Motion:** Rep. Berglee moved that **HB 327 BE AMENDED.**
EXHIBIT(juh30a05)

Discussion:

02:14:11 Helen Thigpen, LSD
02:15:36 Rep. Court
02:15:40 Rep. Wagoner joined the meeting
02:16:00 Rep. B. Brown

02:16:35 **Vote:** Motion carried unanimously by voice vote. Rep. McConnell, Rep. Morigeau and Rep. M. Regier voted by proxy.

02:17:05 **Motion:** Rep. Berglee moved that **HB 327 DO PASS AS AMENDED.**

Discussion:

02:17:18 Rep. B. Brown
02:17:40 Rep. Eck
02:18:10 Rep. Kelker
02:18:58 Rep. Hill Smith
02:22:32 Rep. Eck

02:23:07 Rep. Court
02:23:52 Rep. Manzella
02:24:22 Rep. Usher
02:25:10 Rep. Hill Smith
02:26:24 Rep. Eck
02:26:34 Helen Thigpen, LSD
02:27:35 Rep. C. Knudsen
02:27:45 Helen Thigpen, LSD
02:28:02 Rep. Harris
02:28:39 Rep. Kelker
02:29:32 Rep. Hill Smith

02:30:48 **Vote:** Motion failed 8-11 by roll call vote with Rep. Bishop, Rep. Court, Rep. Eck, Rep. Hill Smith, Rep. Kelker, Rep. McConnell, Rep. Morigeau and Rep. Perry voting aye. Rep. Morigeau and Rep. M. Regier voted by proxy.

02:32:38 **Motion:** Rep. Court moved **HB 327 BE TABLED**. Motion was without objection.

EXECUTIVE ACTION ON HB 168

Discussion:

02:33:21 Helen Thigpen, LSD
02:34:19 Rep. Morigeau joined the meeting
02:34:26 Rep. McConnell joined the meeting

02:35:05 **Motion:** Rep. Berglee moved that **HB 168 DO PASS**.

Discussion:

02:35:14 Helen Thigpen, LSD

02:35:30 **Motion:** Rep. Wagoner moved that **HB 168 BE AMENDED**.
[EXHIBIT\(juh30a06\)](#)

Discussion:

02:36:33 Helen Thigpen, LSD
02:38:41 Chair Doane
02:38:44 Rep Wagoner
02:38:49 Rep. Mortensen

02:38:57 **Vote:** Motion carried unanimously by voice vote. Rep. M. Regier voted by proxy.

02:39:19 **Motion:** Rep. Berglee moved that **HB 168 DO PASS AS AMENDED**.

Discussion:

02:39:27 Rep. Harris
02:40:08 Rep. Wagoner

02:40:30 **Motion:** Rep. Usher moved that **HB 168 BE AMENDED**.
[EXHIBIT\(juh30a07\)](#)

Discussion:

02:40:52 Helen Thigpen, LSD
02:41:54 Rep. Usher
02:42:45 Rep. Berglee
02:43:05 Rep. C. Knudsen
02:43:51 Rep. Usher
02:44:27 Rep. Eck
02:44:55 Rep. Wagoner

02:45:39 **Vote:** Motion carried unanimously by voice vote. Rep. M. Regier voted by proxy.

02:46:14 **Motion/Vote:** Rep. Berglee moved that **HB 168 DO PASS AS AMENDED**.
Motion carried 18-1 by voice vote with Rep. Manzella voting no. Rep. M. Regier voted by proxy.

EXECUTIVE ACTION ON HB 149**Discussion:**

02:47:10 Helen Thigpen, LSD

02:47:53 **Motion:** Rep. Berglee moved that **HB 149 DO PASS**.

02:48:00 **Motion:** Rep. Berglee moved that **HB 149 BE AMENDED**.

[**EXHIBIT\(juh30a08\)**](#)

Discussion:

02:48:09 Helen Thigpen, LSD
02:50:20 Rep. McConnell
02:51:16 Helen Thigpen, LSD
02:52:04 Rep. Usher
02:52:38 Rep. McConnell
02:52:46 Rep. Hill Smith
02:53:27 Rep. Berglee
02:53:45 Rep. Eck

02:54:14 **Vote:** Motion carried 16-3 by roll call vote with Rep. Court, Rep. Eck and Rep. Kelker voting no. Rep. M. Regier voted by proxy.

02:55:29 **Motion/Vote:** Rep. Berglee moved that **HB 149 DO PASS AS AMENDED**.
Motion carried 16-3 by roll call vote with Rep. Bishop, Rep. Eck and Rep. Perry voting no. Rep. M. Regier voted by proxy.

EXECUTIVE ACTION ON HB 340

02:57:12 **Motion:** Rep. Berglee moved that **HB 340 DO PASS**.

Discussion:

02:57:20 Helen Thigpen, LSD
02:57:42 Chair Doane
02:57:53 Rep. Eck

02:58:43 Rep. Harris
02:59:38 Rep. Hill Smith
02:59:52 Rep. Bishop left the meeting
03:01:12 Rep. Kelker
03:03:05 Rep. Court
03:05:27 Rep. B. Brown
03:06:03 Rep. Hill Smith
03:06:20 Rep. Morigeau
03:08:27 Rep. Usher
03:09:32 Rep. Berglee

03:11:03 **Vote:** Motion carried 11-8 by roll call vote with Rep. Bishop, Rep. Court, Rep. Eck, Rep. Hill Smith, Rep. Kelker, Rep. McConnell, Rep. Morigeau and Rep. Perry voting no. Rep. Bishop and Rep. M. Regier voted by proxy.

EXECUTIVE ACTION ON HB 133

03:12:46 **Motion:** Rep. Berglee moved that **HB 133 DO PASS AS PREVIOUSLY AMENDED.**

Discussion:

03:13:05 Helen Thigpen, LSD

03:13:34 **Vote:** Motion failed 9-10 by roll call vote with Rep. Bishop, Rep. Court, Rep. Eck, Rep. Hill Smith, Rep. Kelker, Rep. McConnell, Rep. Morigeau, Rep. Mortensen and Rep. Perry voting aye. Rep. M. Regier, Rep. Bishop and Rep. Usher voted by proxy.

03:15:05 **Motion:** Rep. B. Brown moved **HB 133 BE TABLED.** Motion was without objection.

EXECUTIVE ACTION ON HB 366

03:15:22 **Motion:** Rep. Berglee moved that **HB 366 DO PASS.**

Discussion:

03:15:28 Helen Thigpen, LSD
03:15:50 Rep. Eck
03:16:19 Rep. Mortensen
03:16:31 Rep. Berglee
03:18:51 Rep. Morigeau
03:20:48 Rep. Sheldon-Galloway

EXHIBIT(juh30a09)

03:24:28 **Vote:** Motion failed 9-10 by roll call vote with Rep. Bishop, Rep. Court, Rep. Eck, Rep. Hill Smith, Rep. Kelker, Rep. McConnell, Rep. Morigeau, Rep. Mortensen and Rep. Perry voting aye. Rep. M. Regier and Rep. Usher voted by proxy.

03:26:07 **Motion:** Rep. Berglee moved **HB 366 BE TABLED.** Motion carried.

Committee Business:

03:27:04 Chair Doane

03:27:41 Rep. Sheldon-Galloway

ADJOURNMENT

Adjournment: 03:28:01

Sara Fleming, Secretary

sf

Additional Documents:

EXHIBIT([juh30aad.pdf](#))

Amendments to House Bill No. 149
1st Reading Copy

Requested by Representative Daniel Zolnikov

For the House Judiciary Committee

Prepared by Laura Sankey Keip
February 8, 2017 (9:40am)

1. Title, page 1, line 5.

Strike: "SCANNER"

Insert: "READER"

2. Title, page 1, line 7.

Strike: "SCANNER"

Insert: "READER"

3. Page 1, line 11.

Strike: "scanner"

Insert: "reader"

4. Page 1, line 13.

Strike: "scanner"

Insert: "reader"

5. Page 1, line 14.

Strike: "scanner"

Insert: "reader"

6. Page 1, line 22.

Strike: "scanners"

Insert: "readers"

7. Page 2, line 2.

Strike: "scanner"

Insert: "reader"

8. Page 2, following line 3.

Insert: "{d) State or local law enforcement may use a device and equipment, including license plate readers if necessary, if the following requirements are met:

(i) A state or local law enforcement agency that uses an

automatic license plate reader system shall adopt and publicize a written policy governing its use before the automatic license plate reader system is operational. The policy must address the following:

- (A) use of any database to compare data obtained by the automatic license plate reader system;
- (B) retention of data associated with the automatic license plate reader system;
- (C) sharing of the data with another law enforcement agency;
- (D) training of automatic license plate reader system operators;
- (E) supervisory oversight of automatic license plate reader system use;
- (F) access to and security of data;
- (G) access to data obtained by automatic license plate reader systems not operated by the law enforcement agency; and
- (H) any other subjects related to automatic license plate reader system use by the law enforcement agency.

(ii) At least once every year, the law enforcement agency shall audit its automatic license plate reader system use and effectiveness and report the findings to the head of the law enforcement agency responsible for operating the system.

(iii) Data obtained by a law enforcement agency in accordance with this subsection (2)(d) must be obtained, accessed, preserved, or disclosed only for law enforcement or criminal justice purposes.

(iv) A law enforcement agency that uses a license plate reader system shall:

(A) maintain a record of users who access license plate reader data. The record must be maintained indefinitely.

(B) keep system maintenance and calibration schedules and records on file.

(v) Operation of a license plate reader and access to data collected by a license plate reader must be for official law enforcement purposes only. A license plate reader must be used only to scan, detect, and identify a license plate number for the purpose of identifying a vehicle that is:

- (A) stolen;
- (B) associated with a wanted, missing, or endangered person;
- (C) registered to a person against whom there is an outstanding warrant;
- (D) in violation of commercial trucking requirements;
- (E) involved in case-specific criminal investigative surveillance;
- (F) involved in a homicide, shooting, or other major crime or incident; or
- (G) in the vicinity of a recent crime and may be connected to that crime.

(vi) A positive match by a license plate reader alone does not constitute reasonable suspicion as grounds for a law enforcement officer to stop a vehicle. The officer shall:

(A) develop independent reasonable suspicion for the stop;
or

(B) immediately confirm visually that the license plate on a vehicle matches the image of the license plate displayed on the license plate reader and confirm by other means that the license plate number meets one of the criteria specified in subsection (2)(d)(v).

(vii) A law enforcement agency that uses an automatic license plate reader system in accordance with this section shall update the system from the databases specified pursuant to subsection (2)(d)(i) every 24 hours if an update is available or as soon as practicable after an update becomes available.

(viii) A license plate reader may be installed for the sole purpose of recording and checking license plates and may not be capable of photographing, recording, or producing images of the occupants of a vehicle."

9. Page 2, line 6.

Strike: "In"

Insert: "As used in"

Strike: "license plate scanner"

Insert: "the following definitions apply: (a) "Law enforcement agency" means:

(i) an agency or officer of the state of Montana or a political subdivision that is empowered by the laws of this state to conduct investigations or to make arrests; and

(ii) an attorney, including the attorney general, who is authorized by the laws of this state to prosecute or to participate in the prosecution of a person who is arrested or who may be subject to a civil action related to or concerning an arrest.

(b) "License plate reader"

10. Page 2, following line 13.

Insert: "NEW SECTION. **Section 2. Preservation and disclosure of records by law enforcement agency.** (1) Except as provided in subsection (2), captured license plate data obtained by an automatic license plate reader system that is operated by or on behalf of a law enforcement agency for law enforcement purposes pursuant to [section 1(2)(d)] may not be preserved for more than 90 days after the date that the data is captured.

(2) Data obtained by an automatic license plate reader may be preserved for more than 90 days pursuant to any of the following:

(a) a preservation request submitted pursuant to subsection (3);

(b) a search warrant issued pursuant to 46-5-220;

(c) a federal search warrant issued in compliance with the

Federal Rules of Civil Procedure.

(3) Upon the request of a law enforcement agency, the custodian of captured license plate data shall take all necessary steps to immediately preserve captured license plate data in its possession. A requesting agency must specify in a sworn written statement:

(a) the location of the particular camera or cameras for which captured license plate data must be preserved;

(b) the particular license plate for which captured license plate data must be preserved;

(c) the date or dates and timeframes for which captured license plate data must be preserved;

(d) specific and articulable facts showing that there are reasonable grounds to believe that the captured license plate data is relevant and material to an ongoing criminal or missing persons investigation or is needed to prove a violation of a motor carrier safety regulation; and

(e) the case and the identity of the parties involved in the case.

(4) One year from the date of the initial preservation request, the captured license plate data obtained by an automatic license plate reader system must be destroyed according to the custodian's record or data retention policy, unless the custodian receives another preservation request within the 1-year period. If the custodian receives another preservation request, the 1-year retention period resets based on the date of the second request.

(5) License plate data captured in accordance with [section 1] is a public record but is protected from disclosure under the provisions of Title 2, chapter 6, parts 10 through 12, except to the person to whom the license plate is registered.

(6) Nothing in this section may be construed as requiring the disclosure of captured license plate data if a law enforcement agency determines that disclosure of that data will compromise an ongoing investigation.

(7) Captured license plate data may not be sold for any purpose."

Renumber: subsequent sections

11. Page 2, line 16.

Following: "1"

Insert: "(2)(a) through (2)(c)"

12. Page 2, line 23.

Strike: "and 2"

Insert: "through 3"

13. Page 2, line 25.

Strike: "and 2"
Insert: "through 3"

- END -

MINUTES

MONTANA SENATE 65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Keith Regier, on March 10, 2017 at 9:00 AM, in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Keith Regier, Chair (R)
Sen. Jennifer Fielder, Vice Chair (R)
Sen. Carlie Boland (D)
Sen. Jen Gross (D)
Sen. Steve Hinebaugh (R)
Sen. Jedediah Hinkle (R)
Sen. Margaret (Margie) MacDonald (D)
Sen. Diane Sands (D)

Members Excused:

Sen. Scott Sales (R)
Sen. Nels Swandal (R)
Sen. Chas Vincent (R)

Members Absent: None

Staff Present: Julianne Burkhardt, Legislative Branch
Prudence Gildroy, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 217, 2/23/2017; HB 77, 2/23/2017; HB 147, 2/23/2017; HB 149, 2/23/2017

Executive Action: HB 276 Be Concurred In; HB 231 Be Concurred In As Amended;
HB 342 Be Concurred In; HB 370 Be Concurred In

HEARING ON HB 217

Opening Statement by Sponsor:

00:01:10 Rep. Randy Brodehl (R), HD 9, opened the hearing on HB 217, Revise replacement schedule for regular license plates.

Proponents' Testimony:

00:04:27 Lisa Wanke, Motor Vehicle Division, Department of Justice (DOJ)
00:04:48 Eric Bryson, Montana Association of Counties, Montana County Treasurers Association

Opponents' Testimony: None

Informational Testimony:

00:05:27 Mark Taylor, 3M Company

Questions from Committee Members and Responses:

00:07:16 Sen. Sands
00:07:55 Ms. Wanke, DOJ
00:08:05 Sen. Sands
00:08:20 Ms. Wanke
00:08:26 Sen. Sands
00:08:37 Rep. Brodehl
00:08:57 Sen. Sands
00:09:14 Rep. Brodehl
00:10:00 Sen. Hinebauch
00:10:19 Rep. Brodehl
00:10:29 Sen. MacDonald
00:10:57 Mr. Taylor, 3M
00:11:25 Sen. MacDonald
00:11:43 Mr. Taylor

Closing by Sponsor:

00:12:13 Rep. Brodehl

HEARING ON HB 77

Opening Statement by Sponsor:

00:14:00 Rep. Randy Brodehl (R), HD 9, opened the hearing on HB 77, Revise public defender system and provide for a director hired by DOA.

00:15:40 Sen. Gross joined the meeting.

Proponents' Testimony:

00:16:30 Amy Sassano, Office of Budget and Program Planning
00:17:19 Mark Murphy, Montana County Attorneys Association

Opponents' Testimony: None

Informational Testimony:

00:21:12 Peter Ohman, Office of Public Defender (OPD)

Questions from Committee Members and Responses:

00:21:32 Sen. MacDonald
00:22:17 Mr. Ohman, OPD

Closing by Sponsor:

00:23:11 Rep. Brodehl

HEARING ON HB 147

Opening Statement by Sponsor:

00:24:28 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 147, Requiring search warrant for gov access to electronic devices.

Proponents' Testimony:

00:31:19 John Santy, representing himself
00:32:38 Michael Sangray, representing himself
00:33:11 Tucker Finley, Montana Public Interest Research Group
00:34:05 Nanette Gilbertson, Montana Library Association
00:35:01 Wes Krawczyk, representing himself

[EXHIBIT\(jus50a01\)](#)

[EXHIBIT\(jus50a02\)](#)

00:38:25 Eric Fulton, representing himself
00:41:26 Matthew Gannen, representing himself
00:43:42 Nicholas Schwaderer, representing himself
00:47:23 SK Rossi, ACLU of Montana

Opponents' Testimony:

00:48:16 Adrienne Slaughter, Department of Corrections (COR)
00:49:27 Chad Parker, Department of Justice (DOJ)

[EXHIBIT\(jus50a03\)](#)

00:52:33 Sen. Vincent joined the meeting.

00:53:52 Mark Murphy, Montana County Attorneys Association (MCAA), Montana Association of Chiefs of Police, Montana Police Protective Association

Informational Testimony:

00:58:20 Greg Mohr, Montana Magistrates Association

Questions from Committee Members and Responses:

00:58:35 Sen. Sands
 00:59:39 Ms. Slaughter, COR
 01:00:15 Sen. MacDonald
 01:01:28 Mr. Schwaderer, self
 01:03:30 Sen. MacDonald
 01:04:23 Mr. Murphy, MCAA
 01:05:56 Sen. Fielder
 01:06:37 Mr. Parker, DOJ
 01:10:24 Sen. Fielder
 01:10:52 Mr. Parker
 01:11:22 Sen. Fielder
 01:11:45 Mr. Murphy
 01:14:52 Sen. Fielder
 01:15:14 Mr. Murphy
 01:16:37 Sen. Fielder
 01:17:33 Rep. Zolnikov
 01:18:26 Sen. Fielder
 01:18:51 Rep. Zolnikov
 01:19:27 Sen. Hinkle
 01:20:35 Mr. Parker
 01:22:16 Sen. Hinkle
 01:22:41 Mr. Parker
 01:24:18 Sen. Hinkle
 01:24:32 Rep. Zolnikov
 01:25:23 Sen. Gross
 01:25:57 Rep. Zolnikov
 01:27:15 Sen. MacDonald
 01:28:36 Mr. Parker
 01:29:25 Sen. Sands
 01:29:51 Mr. Parker
 01:31:06 Chair Regier
 01:31:49 Rep. Zolnikov
 01:32:13 Chair Regier
 01:32:20 Rep. Zolnikov

Closing by Sponsor:

01:32:46 Rep. Zolnikov

HEARING ON HB 149

Opening Statement by Sponsor:

01:36:41 Rep. Daniel Zolnikov (R), HD 45, opened the hearing on HB 149, Revise privacy laws regarding license plate scanners.

[EXHIBIT\(jus50a04\)](#)

[EXHIBIT\(jus50a05\)](#)

Proponents' Testimony:

01:46:30 John Santy, representing himself

01:46:42 Eric Fulton, representing himself

01:48:44 Wes Krawczyk, representing himself

01:49:04 Mark Murphy, Montana County Attorneys Association (MCAA)

01:49:53 Spook Stang, Motor Carriers of Montana

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:51:07 Sen. Hinkle

01:51:31 Rep. Zolnikov

01:54:54 Sen. Hinkle

01:55:45 Rep. Zolnikov

01:58:41 Sen. MacDonald

02:00:49 Mr. Murphy, MCAA

02:02:42 Sen. MacDonald

02:03:47 Mr. Murphy

02:05:08 Sen. Fielder

02:05:54 Mr. Santy, self

02:07:08 Sen. Vincent

02:07:31 Mr. Santy

02:08:08 Sen. Vincent

02:09:01 Mr. Fulton, self

Closing by Sponsor:

02:09:41 Rep. Zolnikov

02:13:04 Recess

Sen. Vincent left the meeting.

02:23:22 Reconvene

EXECUTIVE ACTION ON HB 276

02:23:58 **Motion:** Sen. Fielder moved that **HB 276 BE CONCURRED IN.**

Discussion:

02:24:31 Sen. Boland

02:25:09 Sen. Hinkle

02:25:59 Sen. Fielder

02:26:58 **Vote:** Motion carried 8-3 by roll call vote with Sen. Hinkle, Sen. S. Sales and Sen. Vincent voting no. Sen. S. Sales, Sen. Swandal and Sen. Vincent voted by proxy. Sen. Fielder will carry the bill.

02:29:16 Sen. Sands

EXECUTIVE ACTION ON HB 231

02:30:03 **Motion:** Sen. Fielder moved that **HB 231 BE CONCURRED IN.**

Discussion:

02:30:12 Julianne Burkhardt, Legislative Services Division (LSD)

02:31:11 **Motion:** Sen. Fielder moved that **HB 231 BE AMENDED.**

[EXHIBIT\(jus50a06\)](#)

Discussion:

02:31:20 Ms. Burkhardt, LSD

02:32:29 Chair Regier

02:32:40 Sen. Fielder

02:32:51 Ms. Burkhardt

02:33:49 Chair Regier

02:34:02 Sen. Hinkle

02:35:20 Sen. Fielder

02:36:27 Chair Regier

02:36:43 Sen. Fielder

02:37:23 Chair Regier

02:37:44 Sen. Fielder

02:38:00 Sen. Hinkle

02:38:52 Chair Regier

02:39:07 Sen. Hinkle

02:39:18 Ms. Burkhardt

02:39:43 **Substitute Motion:** Sen. Fielder made a substitute motion that **HB 231 BE AMENDED SEGREGATING OUT #7.**

Discussion:

02:40:11 Sen. Hinkle
02:40:18 Chair Regier

02:40:33 **Vote:** Motion carried 10-1 by voice vote with Sen. Swandal voting no. Sen. S. Sales, Sen. Swandal and Sen. Vincent voted by proxy.

02:41:15 **Motion/Vote:** Sen. Fielder moved that **HB 231 BE AMENDED WITH #1, #2, #3, #4, #5, #6..** Motion carried unanimously by voice vote. Sen. S. Sales, Sen. Swandal and Sen. Vincent voted by proxy.

02:42:19 **Motion:** Sen. Fielder moved that **HB 231 BE CONCURRED IN AS AMENDED.**

Discussion:

02:42:28 Sen. Sands
02:43:16 Chair Regier
02:43:41 Sen. Sands
02:44:01 Ms. Burkhardt
02:44:52 Sen. Boland
02:45:43 Sen. Hinkle

02:48:07 **Vote:** Motion carried 7-4 by roll call vote with Sen. Boland, Sen. Gross, Sen. MacDonald and Sen. Sands voting no. Sen. S. Sales, Sen. Swandal and Sen. Vincent voted by proxy. Sen. Webb will carry the bill.

EXECUTIVE ACTION ON HB 342

02:48:20 **Motion:** Sen. Fielder moved that **HB 342 BE CONCURRED IN.**

Discussion:

02:48:40 Julianne Burkhardt, Legislative Services Division (LSD)
02:48:48 Sen. Gross
02:49:21 Sen. Hinebauch
02:50:11 Sen. Gross
02:50:15 Sen. Hinebauch
02:50:42 Sen. Gross
02:51:43 Sen. Sands
02:52:28 Sen. Hinkle
02:53:06 Sen. Fielder
02:54:04 Sen. MacDonald

02:55:22 **Vote:** Motion carried 7-4 by roll call vote with Sen. Boland, Sen. Gross, Sen. MacDonald and Sen. Sands voting no. Sen. S. Sales, Sen. Swandal and Sen. Vincent voted by proxy. Sen. Sales will carry the bill.

Sen. Vincent entered the meeting.

EXECUTIVE ACTION ON HB 370

02:57:19 **Motion:** Sen. Fielder moved that **HB 370 BE CONCURRED IN.**

Discussion:

02:57:35 Sen. Fielder

02:58:35 Chair Regier

02:58:54 Sen. Fielder

02:59:01 Sen. Vincent

03:00:01 **Vote:** Motion carried unanimously by voice vote. Sen. S. Sales and Sen. Swandal voted by proxy. Sen. Fielder will carry the bill.

ADJOURNMENT

Adjournment: 11:00 AM

Prudence Gildroy, Secretary

pg

Additional Documents:

EXHIBIT([jus50aad.pdf](#))

Millions of cars tracked across US in 'massive' real-time DEA spy program

American Civil Liberties Union warns scanning of license plates by Drug Enforcement Agency is building a repository of all drivers' movements



The DEA database has the potential to track every driver's movements, the American Civil Liberties Union has warned. Photograph: DA Barnes/Alamy

Rory Carroll in Los Angeles

Tuesday 27 January 2015 08.55 EST

The United States government is tracking the movement of vehicles around the country in a clandestine intelligence-gathering programme that has been condemned as a further official exercise to build a database on people's lives.

The Drug Enforcement Administration was monitoring license plates on a "massive" scale, giving rise to "major civil liberties concerns", the American Civil Liberties Union said on Monday night, citing DEA documents obtained under freedom of information.

"This story highlights yet another way government security agencies are seeking to quietly amplify their powers using new technologies," Jay Stanley, a senior policy analyst with ACLU, told the Guardian.

"On this as on so many surveillance issues, we can take action, put in place some common sense limits or sit back and let our society be transformed into a place we won't recognize - or probably much like."

The advocacy group said the DEA records it obtained from the justice department were heavily redacted and incomplete.

"These records do, however, offer documentation that this program is a major DEA initiative that has the potential to track our movements around the country. With its jurisdiction and its finances, the federal government is uniquely positioned to create a centralized repository of all drivers' movements across the country – and the DEA seems to be moving toward doing just that."

If license plate readers continued to proliferate without restriction and the DEA held license plate reader data for extended periods the agency would soon possess a detailed and invasive depiction of people's lives, the ACLU said, especially if combined with other surveillance data such as bulk phone records or information gleaned by the US Marshals Service using aircraft that mimic cellphone towers.

"Data-mining the information, an unproven law enforcement technique that the DEA has begun to use here, only exacerbates these concerns, potentially tagging people as criminals without due process," the ACLU warned.

The Wall Street Journal, citing official documents and anonymous officials, reported that the programme built a national database to track vehicles in real time and stored hundreds of millions of records about motorists.

The primary goal was to seize cars, cash and other assets to combat drug trafficking but the database expanded to monitor vehicles associated with other potential crimes, it said.

Officials have publicly acknowledged they track vehicles near the Mexican border to combat drug trafficking.

But the database's expansion "throughout the United States", as one DEA email put it, worried Senator Patrick Leahy, who sits on the Senate judiciary committee.

"The fact that this intrusive technology is potentially being used to expand the reach of the government's asset forfeiture efforts is of even greater concern," he told the Wall Street Journal.

Leahy called for additional accountability and said Americans should not have to fear that "their locations and movements are constantly being tracked and stored in a massive government database".

A spokesman for the justice department, which includes the DEA, said the program complied with federal law. "It is not new that the DEA uses the license-plate reader program to arrest criminals and stop the flow of drugs in areas of high trafficking intensity," the spokesman said.

According to the ACLU, the government-run national license plate tracking program dates from 2008. Information had trickled out over the years but far too little was known about the program, the ACLU said.

Since you're here ...

... we've got a small favour to ask. More people are reading the Guardian than ever, but far fewer are paying for it. Advertising revenues across the media are falling fast. And unlike some other news organisations, we haven't put up a paywall - we want to keep our journalism open to all. So you can see why we need to ask for your help. The Guardian's independent, investigative journalism takes a lot of time, money and hard work to produce. But we do it because we believe our perspective matters - because it might well be your perspective, too.

If everyone who reads our reporting, who likes it, helps to support it, our future would be much more secure.

[Become a supporter](#) [Make a contribution](#)

[Topics](#)

[Surveillance](#)

[Data protection](#)[Privacynews](#)

SENATE JUDICIARY

Exhibit No. 5

Date: 3-10-17

Bill No. HB 149

theblaze

www.theblaze.com

WSJ: Federal agents once 'persuaded' police officers to scan license plates of gun show customers to gather intel

Chris Enloe (<http://www.theblaze.com/author/christopher-enloe/>) Oct 3, 2016 5:26 pm

Federal agents once persuaded police officers in southern California to use license-plate readers to gather information on gun show customers, according to a report posted at Wall Street Journal (<http://www.wsj.com/articles/gun-show-customers-license-plates-come-under-scrutiny-1475451302>) Sunday night.

Emails reviewed by the Journal revealed that agents with the Immigration and Customs Enforcement agency in 2010 planned to get local law enforcement to use the devices to gather information on cars parked in parking lots at gun shows, including a well-known show in Del Mar.



(<http://www.theblaze.com/wp-content/uploads/2016/10/GettyImages-545902310.jpg>)

Guns sit for sale at a Dallas gun show where thousands of different weapons are displayed. (Getty Images/Spencer Platt)

More from the WSJ:

Agents then compared that information to cars that crossed the border, hoping to find gun smugglers, according to the documents and interviews with law-enforcement officials with knowledge of the operation.

The investigative tactic concerns privacy and guns-rights advocates, who call it an invasion of privacy. The law-enforcement officials say it is an important and legal tool for pursuing dangerous, hard-to-track illegal activity.

The practice, which didn't lead to any investigations or arrests and was confirmed by an ICE spokesperson, was widely condemned by those who spoke to the newspaper.

ACLU lawyer Jay Stanley said the practice "highlights the problem with mass collection of data."

Erich Pratt, executive director of Gun Owners of America, told the Journal that the practice may even violate federal law: "Information on law-abiding gun owners ends up getting recorded, stored, and registered, which is a violation of the 1986 Firearm Owners Protection Act and of the Second Amendment."

Even the person who developed the plate-reading technology condemned the plan to mass gather information with the devices, saying it was an "abuse of technology."

"I think this was a situation that shows we need to establish policies for license-plate readers, like any new technology," he said.

The report continued:

Critics such as Mr. Pratt say using the technology for gun shows is illegal in any case because of the firearm owners act, which bans the government from creating records of gun buyers except temporarily for background checks.

The Journal obtained, through a request under the Freedom of Information Act, internal ICE emails showing agents in 2010 targeted a gun show called Crossroads of the West in Del Mar, Calif.

More than half of the pages provided by the agency were completely redacted, or blacked out; others have large sections redacted, apparently to keep secret how the surveillance was undertaken.

In an email titled "Request for Assistance," an ICE investigator wrote, "We would like to see if you can support an outbound guns/ammo operation on (redacted) at the Crossroads (Del Mar) Gun Show. We would like to deploy license plate readers." The email, whose sender and recipient are redacted, includes a large section of operational details that are also redacted.

Bob Templeton, who organizes the annual Del Mar gun show, which attracts as many as 9,000 gun enthusiasts each year, said his show customers would "resent" the government's "intrusion."

"It's obviously intrusive and an activity that hasn't proven to have any legitimate law-enforcement purpose," he told the Journal. "I think my customers would be resentful of having been the target of that kind of surveillance."

It isn't immediately clear how many times officers scanned parking lots to gather information, however, federal agents did inquire about doing it in the future, an email from June 2010 revealed, according to the paper.

MINUTES

MONTANA SENATE 65th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Keith Regier, on March 16, 2017 at 8:00 A.M., in Room 303 Capitol

ROLL CALL

Members Present:

Sen. Keith Regier, Chair (R)
Sen. Jennifer Fielder, Vice Chair (R)
Sen. Carlie Boland (D)
Sen. Steve Hinebaugh (R)
Sen. Jedediah Hinkle (R)
Sen. Margaret (Margie) MacDonald (D)
Sen. Scott Sales (R)
Sen. Diane Sands (D)
Sen. Nels Swandal (R)
Sen. Chas Vincent (R)

Members Excused: Sen. Jen Gross (D)

Members Absent: None

Staff Present: Julianne Burkhardt, Legislative Branch
Pam Schindler, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 201, 3/10/2017; HB 251 3/10/2017; HB 273, 3/10/2017
Executive Action: HB 62-Be Concurred In, HB 147-Be Concurred In As Amended,
HB 149-BE Concurred In As Amended, HB 201-Be Concurred In,
HB 44-Be Concurred In, HB 129-Be Concurred In As Amended,
HB 273-Be Concurred In/Motion Withdrawn
Discussion on Committee Bill to Eliminate the Marriage License Requirement

Discussion On Committee Bill to Eliminate the Marriage License Requirement

00:01:35 Chairman Regier

[EXHIBIT\(jus55a01\)](#)

00:02:17 President Sales

00:05:27 Chairman Regier

00:05:54 President Sales

00:06:21 Sen. Hinebauch

00:06:34 President Sales

00:08:59 Julianne Burkhardt, Legislative Services Division (LSD)

00:09:02 President Sales

00:09:13 Sen. Hinebauch

00:09:30 Sen. Fielder

[EXHIBIT\(jus55a02\)](#)

00:12:06 Sen. Sands

00:13:50 Ms. Burkhardt, LSD

00:14:21 Sen. Boland

00:15:15 Chairman Regier

00:16:02 Sen. Fielder

00:17:02 Sen. Swandal

00:17:49 Sen. MacDonald

00:19:07 Sen. Swandal

00:19:35 Chairman Regier

00:19:41 Sen. Swandal

00:19:53 Chairman Regier

00:20:26 Sen. Sands

00:21:37 Sen. Boland

00:22:28 Sen. Swandal

00:23:02 Sen. Hinkle

00:23:14 Sen. Swandal

00:23:48 Ms. Burkhardt

00:24:05 Sen. MacDonald

00:25:11 Sen. Sands

00:25:37 President Sales

00:26:44 Sen. Fielder

00:27:29 Sen. Sands

00:30:15 Sen. MacDonald

00:31:15 President Sales

00:33:22 Sen. MacDonald

00:35:48 Chairman Regier

00:35:52 Sen. Boland

00:36:34 President Sales

00:38:25 Sen. Boland

00:38:58 President Sales

00:40:24 Sen. Sands

00:42:25 Sen. Fielder

00:43:34 Sen. MacDonald

00:45:09 President Sales

00:46:54 Sen. Swandal
 00:48:16 Sen. Hinebaugh
 00:49:41 Chairman Regier
 00:50:15 President Sales
 00:53:19 Chairman Regier
 00:53:53 Ms. Burkhardt
 00:54:42 Sen. Sands
 00:55:26 Chairman Regier
 00:55:30 Sen. MacDonald
 00:56:12 Sen. Boland

00:56:53 **Motion:** Sen. Sands moved that **STAFF DRAFT A BILL FOR A DECLARATION OF MARRIAGE, NOT A REGISTRATION.**

Discussion:

00:57:21 Sen. Fielder
 00:58:05 Sen. Sands
 00:58:39 Sen. Fielder
 00:59:08 President Sales
 00:59:24 Sen. Sands
 00:59:41 Ms. Burkhardt

01:00:05 **Vote:** Motion carried 9-2 by roll call vote with Sen. MacDonald and Sen. K. Regier voting no. Sen. Gross voted by proxy.

01:01:11 Sen. Sands

HEARING ON HB 201

Opening Statement by Sponsor:

01:01:51 Rep. Rob Cook (R), HD 18, opened the hearing on HB 201, Provide for appointment of court-appointed special advocate as guardian ad litem.

Proponents' Testimony:

01:02:31 Shannon McDonald, deputy chief of counsel, Department of Public Health and Human Services (DPHHS)

01:04:35 Loretta Miller, court appointed special advocate, CASA

[**EXHIBIT\(jus55a03\)**](#)

Rep. Cook was needed elsewhere and presented his closing statement.

Closing by Sponsor:

01:14:34 Rep. Cook

Proponents Testimony continued:

01:15:01 Jani McCall, Intermountain Support Network; Yellowstone Boys and Girls Ranch;
Family Support Network; Protect Montana Kids

[EXHIBIT\(jus55a04\)](#)

[EXHIBIT\(jus55a05\)](#)

Opponents' Testimony:

01:16:35 Mike Bacon, self

[EXHIBIT\(jus55a06\)](#)

Informational Testimony:

None

Questions from Committee Members and Responses:

01:18:48 Chairman Regier
01:19:00 Ms. McDonald, DPHHS
01:19:15 Ms. Miller, CASA
01:20:04 Sen. Swandal
01:20:17 Ms. Miller

HEARING ON HB 251

Opening Statement by Sponsor:

01:21:28 Rep. Kirk Wagoner (R), HD 75, opened the hearing on HB 251, Remove certain
items from conceal carry laws.

Proponents' Testimony:

None

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

01:24:31 Sen. Sands
01:25:07 Sen. MacDonald
01:25:48 Rep. Wagoner
01:26:07 Sen. Vincent
01:26:21 Rep. Wagoner

Closing by Sponsor:

01:26:50 Rep. Wagoner

HEARING ON HB 273

Opening Statement by Sponsor:

01:27:32 Rep. Barry Usher (R), HD 40, opened the hearing on HB 273, Generally revise concealed weapons laws.

Proponents' Testimony:

None

Opponents' Testimony:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

None

Closing by Sponsor:

01:32:29 Rep. Usher

01:33:38 Sen. Sands

01:33:45 Recess

01:50:18 Reconvene

President Sales absent from the hearing room.

EXECUTIVE ACTION ON HB 62

01:50:35 **Motion:** Sen. Fielder moved that **HB 62 BE CONCURRED IN.**

Discussion:

01:51:00 Sen. Swandal

01:51:11 Sen. Sands

01:51:53 **Vote:** Motion carried unanimously by voice vote. Sen. Gross and Sen. S. Sales voted by proxy. Sen. Swandal will carry the bill.

EXECUTIVE ACTION ON HB 147

01:52:27 **Motion:** Sen. Fielder moved that **HB 147 BE CONCURRED IN.**

01:52:46 Julianne Burkhardt, Legislative Services Division (LSD)

01:53:13 **Motion:** Sen. Fielder moved that **HB 147 BE AMENDED.**

[**EXHIBIT\(jus55a07\)**](#)

Discussion:

01:53:28 Ms. Burkhardt, LSD

01:56:21 Sen. Fielder

01:57:05 Sen. Hinebauch

01:57:23 Chairman Regier

01:57:47 **Vote:** Motion carried unanimously by voice vote. Sen. Gross and Sen. S. Sales voted by proxy.

01:58:02 **Motion:** Sen. Fielder moved that **HB 147 BE CONCURRED IN AS AMENDED.**

Discussion:

01:58:09 Sen. MacDonald

01:58:23 **Vote:** Motion carried unanimously by voice vote. Sen. Gross and Sen. S. Sales voted by proxy. Sen. Fielder will carry the bill.

EXECUTIVE ACTION ON HB 149

01:59:04 **Motion:** Sen. Fielder moved that **HB 149 BE CONCURRED IN.**

01:59:21 Julianne Burkhardt, Legislative Services Division (LSD)

01:59:41 **Motion:** Sen. Fielder moved that **HB 149 BE AMENDED.**

[**EXHIBIT\(jus55a08\)**](#)

Discussion:

01:59:58 Ms. Burkhardt, LSD

02:01:24 **Vote:** Motion carried unanimously by voice vote. Sen. Gross and Sen. S. Sales voted by proxy.

02:01:40 **Motion:** Sen. Fielder moved that **HB 149 BE CONCURRED IN AS AMENDED.**

Discussion:

02:01:47 Sen. Swandal

02:01:58 Sen. MacDonald

02:02:30 Ms. Burkhardt

02:03:00 **Vote:** Motion carried unanimously by voice vote. Sen. Gross and Sen. S. Sales voted by proxy. Sen. Hinebauch will carry the bill.

EXECUTIVE ACTION ON HB 201

02:04:27 **Motion:** Sen. Fielder moved that **HB 201 BE CONCURRED IN.**

Discussion:

02:04:32 Sen. Sands
02:04:41 Sen. Swandal
02:06:44 Sen. Vincent
02:07:36 Sen. Swandal
02:08:03 Sen. MacDonald
02:09:01 Sen. Sands
02:09:47 Chairman Regier
02:09:57 Sen. Swandal

02:10:49 **Vote:** Motion carried unanimously by voice vote. Sen. Gross and Sen. S. Sales voted by proxy. Sen. Swandal will carry the bill.

EXECUTIVE ACTION ON HB 273

02:11:47 **Motion:** Sen. Fielder moved that **HB 273 BE CONCURRED IN.**

Discussion:

02:12:05 Sen. Vincent
02:12:27 Julianne Burkhardt, Legislative Services Division

02:12:53 Without objection, Sen. Fielder withdrew the BE CONCURRED IN motion.

02:13:05 Sen. Vincent
02:13:17 Sen. Sands

EXECUTIVE ACTION ON HB 44

02:14:08 **Motion:** Sen. Fielder moved that **HB 44 BE CONCURRED IN.**

Discussion:

02:14:25 Sen. Vincent
02:15:22 Sen. Swandal
02:16:56 Chairman Regier
02:17:08 Sen. Swandal
02:17:43 Sen. Sands
02:18:52 Chairman Regier
02:18:58 Sen. MacDonald

02:19:51 Sen. Fielder
 02:21:28 Sen. Sands
 02:22:00 Chairman Regier
 02:22:09 Sen. Vincent
 02:23:32 Chairman Regier

02:23:47 **Vote:** Motion carried unanimously by roll call vote. Sen. Gross and Sen. S. Sales voted by proxy. Sen. MacDonald will carry the bill.

Discussion on HB 70:

02:25:02 Julianne Burkhardt, Legislative Services Division

EXECUTIVE ACTION ON HB 129

02:26:09 **Motion:** Sen. Fielder moved that **HB 129 BE CONCURRED IN.**

02:26:43 **Motion:** Sen. Fielder moved that **HB 129 BE AMENDED.**
[EXHIBIT\(jus55a09\)](#)

Discussion:

02:26:49 Chairman Regier
 02:27:38 Julianne Burkhardt, Legislative Services Division
 02:29:16 Sen. Sands
 02:30:07 Sen. Swandal
 02:31:18 Chairman Regier
 02:31:52 Sen. Swandal
 02:32:02 Sen. Vincent
 02:33:11 Sen. Sands
 02:33:57 Sen. Swandal
 02:34:30 Chairman Regier

02:35:11 **Vote:** Motion carried 6-5 by roll call vote with Sen. Boland, Sen. Gross, Sen. MacDonald, Sen. Sands and Sen. Swandal voting no. Sen. Gross and Sen. S. Sales voted by proxy.

02:35:53 **Motion:** Sen. Fielder moved that **HB 129 BE CONCURRED IN AS AMENDED.**

Discussion:

02:36:02 Sen. Sands

02:36:24 **Vote:** Motion carried 8-3 by roll call vote with Sen. Boland, Sen. Gross and Sen. MacDonald voting no. Sen. Gross and Sen. S. Sales voted by proxy. Sen. Regier will carry the bill.

02:38:34 Chairman Regier

ADJOURNMENT

Adjournment: 10:40 A.M.

Pam Schindler, Secretary

ps

Additional Documents

Additional Documents:

EXHIBIT([jus55aad.pdf](#))

SENATE JUDICIARY

Exhibit No. 8
Date: 3/16/17
Bill No. HB149

Amendments to House Bill No. 14
3rd Reading Copy

Requested by Representative Daniel Zolnikov

For the Senate Judiciary Committee

Prepared by Julianne Burkhardt
March 10, 2017 (7:19am)

1. Page 2, line 30.

Following: "OPERATION OF A LICENSE PLATE READER"

Insert: "by a law enforcement agency"

Following: line 30

Insert: "operated by a law enforcement agency"

2. Page 3, line 1.

Following: "USED"

Insert: "by a law enforcement agency"

3. Page 3, line 20 through line 21.

Following: "PLATES"

Strike: remainder of line 20 through "VEHICLE" on line 21

4. Page 5, line 12.

Following: "DATA"

Insert: "gathered by law enforcement"

Following: "PURPOSE"

Insert: "except as provided in [section 1]"

- END -